

# *The* **NORTH CAROLINA REGISTER**

**IN THIS ISSUE .....**

**EXECUTIVE ORDERS**

**PROPOSED RULES**

**Architecture, Board of**

**Economic and Community Development**

**Environment, Health, and Natural Resources**

**Human Resources**

**Physical Therapy Examiners, Board of**

**Public Education**

**FINAL RULES**

**Correction**

**ARRC OBJECTIONS**

**RULES INVALIDATED BY JUDICIAL DECISION**

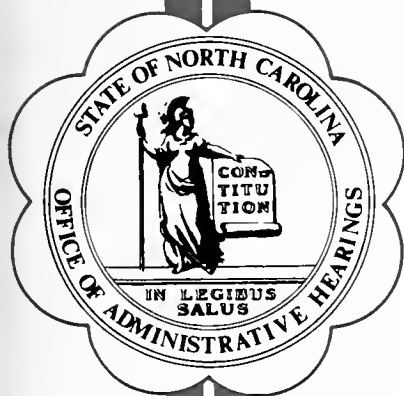
**ISSUE DATE: APRIL <sup>1</sup>/<sub>2</sub>, 1991**

**Volume 6 • Issue 1 • Pages 1-44**

RECEIVED

APR 5 1991

LAU LIBRARY



# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447, Attn: *Subscriptions*.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

**North Carolina Register.** Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, pursuant to Chapter 150B of the General Statutes. Subscriptions one hundred and five dollars (\$105.00) per year.

**North Carolina Administrative Code.** Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

# NORTH CAROLINA REGISTER



*Office of Administrative Hearings  
P. O. Drawer 27447  
Raleigh, NC 27611-7447  
(919) 733 - 2678*

Julian Mann III,  
*Director*  
James R. Scarcella Sr.,  
*Deputy Director*  
Molly Masich,  
*Director APA Services*

**Staff:**  
Ruby Creech,  
*Publications Coordinator*  
Teresa Kilpatrick,  
*Editorial Assistant*  
Jean Shirley,  
*Editorial Assistant*

## ISSUE CONTENTS

### I. EXECUTIVE ORDERS

Executive Orders 132-134..... 1

### II. PROPOSED RULES

#### Economic and Community Development

Alcoholic Beverage  
Control Commission ..... 4

#### Environment, Health, and Natural Resources

Health: Epidemiology.....28  
Health Services  
Commission ..... 9

#### Human Resources

Medical Assistance ..... 9  
Mental Health, Developmental  
Disabilities and Substance  
Abuse Services ..... 5

#### Licensing Boards

Architecture, Board of.....30  
Physical Therapy Examiners  
Board of .....33

#### Public Education

Elementary and Secondary.....29

### III. FINAL RULES

#### Correction

Division of Prisons.....35

### IV. ARRC OBJECTIONS.....39

### V. RULES INVALIDATED BY JUDICIAL DECISION.....42

### VI. CUMULATIVE INDEX.....44

**NORTH CAROLINA REGISTER**  
*Publication Schedule*  
*(April 1991 - December 1992)*

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
04/01/91	03/11/91	03/18/91	05/01/91	08/01/91
04/15/91	03/22/91	04/01/91	05/15/91	08/01/91
05/01/91	04/10/91	04/17/91	05/31/91	09/01/91
05/15/91	04/24/91	05/01/91	06/14/91	09/01/91
06/03/91	05/10/91	05/17/91	07/03/91	10/01/91
06/14/91	05/23/91	05/31/91	07/14/91	10/01/91
07/01/91	06/10/91	06/17/91	07/31/91	11/01/91
07/15/91	06/21/91	06/28/91	08/14/91	11/01/91
08/01/91	07/11/91	07/18/91	08/31/91	12/01/91
08/15/91	07/25/91	08/01/91	09/14/91	12/01/91
09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
09/16/91	08/23/91	08/30/91	10/16/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
10/15/91	09/24/91	10/01/91	11/14/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
11/15/91	10/24/91	10/31/91	12/15/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	04/01/92
01/02/92	12/09/91	12/16/91	01/31/92	05/01/92
01/15/92	12/20/91	12/31/91	02/14/92	05/01/92
02/03/92	01/10/92	01/17/92	03/04/92	06/01/92
02/14/92	01/24/92	01/31/92	03/15/92	06/01/92
03/02/92	02/10/92	02/17/92	04/01/92	07/01/92
03/16/92	02/24/92	03/02/92	04/15/92	07/01/92
04/01/92	03/11/92	03/18/92	05/01/92	08/01/92
04/15/92	03/25/92	04/01/92	05/15/92	08/01/92
05/01/92	04/10/92	04/17/92	05/31/92	09/01/92
05/15/92	04/24/92	05/01/92	06/14/92	09/01/92
06/01/92	05/11/92	05/18/92	07/01/92	10/01/92
06/15/92	05/25/92	06/01/92	07/15/92	10/01/92
07/01/92	06/10/92	06/17/92	07/31/92	11/01/92
07/15/92	06/24/92	07/01/92	08/14/92	11/01/92
08/03/92	07/13/92	07/20/92	09/02/92	12/01/92
08/14/92	07/24/92	07/31/92	09/13/92	12/01/92
09/01/92	08/11/92	08/18/92	10/01/92	01/01/93
09/15/92	08/25/92	09/01/92	10/15/92	01/01/93
10/01/92	09/10/92	09/17/92	10/31/92	02/01/93
10/15/92	09/24/92	10/01/92	11/14/92	02/01/93
11/02/92	10/12/92	10/19/92	12/02/92	03/01/93
11/16/92	10/23/92	10/30/92	12/16/92	03/01/93
12/01/92	11/06/92	11/13/92	12/31/92	04/01/93
12/15/92	11/24/92	12/01/92	01/14/93	04/01/93

\* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

**EXECUTIVE ORDER NUMBER 132  
ESTABLISHMENT OF GOVERNOR'S COUNCIL  
ON ALCOHOL  
AND OTHER DRUG ABUSE**

WHEREAS, the Governor's Council on Alcohol and Drug Abuse Among Children and Youth was established by Executive Order Number 23 and was extended by Executive Order Number 64; and

WHEREAS, it has been made known to me that a change in the name and scope of this Council is appropriate;

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

**Section 1. ESTABLISHMENT**

- (a) There is hereby established a Governor's Council on Alcohol and Other Drug Abuse.
- (b) The Council shall consist of not more than twenty (20) persons who shall be appointed by the Governor. The Governor shall designate the chairperson of the Council. All Council members shall serve at the pleasure of the Governor.
- (c) The persons appointed shall be citizens who have demonstrated interest, involvement or expertise in issues related to prevention, intervention and treatment of alcohol and other drug abuse.

**Section 2. FUNCTIONS**

- (a) The Council is authorized to meet regularly at the call of the Chairperson, the Governor, or the Secretary of Human Resources.
- (b) In fulfilling its undertaking, the Council shall have the following duties relating to alcohol and other drug abuse issues:
  - (1) Review the General Statutes of North Carolina applicable to substance abuse, including criminal and service delivery legislation and make recommendations concerning needed changes;
  - (2) Review and recommend mechanisms for the coordination of state and local resources for addressing identified needs;
  - (3) Conduct public hearings and advise the Governor and other appropriate state government departments and agency heads of the result and recommendations of the Council;
  - (4) Encourage local areas to identify an existing board, council or commission to

mobilize resources to address substance abuse problems;

- (5) Encourage local boards, councils or commissions to develop an implementation plan to meet identified needs;
- (6) Assist local boards, councils or commissions in identifying model prevention, intervention and treatment efforts;
- (7) Encourage program activities that increase public awareness of substance abuse and strategies to decrease the problem; and
- (8) Other such duties as assigned by the Governor or the Secretary of Human Resources.

**Section 3. ADMINISTRATION**

- (a) The heads of the State departments and agencies shall, to the extent permitted by law, provide the Council information as may be required by the Council in carrying out the purposes of the Order.
- (b) The Department of Human Resources shall provide staff and support services as directed by the Secretary of Human Resources.
- (c) Members of the Council shall serve without compensation, but may receive reimbursement contingent on the availability of funds for travel and subsistence expenses in accordance with state guidelines and procedures.
- (d) The Council shall be funded by the Department of Human Resources and contributions received from the private sector.

**Section 4. REPORTS**

- (a) The Council shall present an annual report to the Governor and the Secretary of Human Resources.
- (b) Reports of recommendations may be submitted to the Governor and Secretary of Human Resources as deemed appropriate by the Chairperson.

**Section 5. IMPLEMENTATION**

The Office of the Secretary of Human Resources will review reports and recommendations and take appropriate action.

**Section 6. PRIOR ORDERS**

All prior Executive Orders or portions of prior Executive Orders inconsistent herewith are hereby repealed.

This Order is effective this the 22nd day of February, 1991, and shall expire two years from

this date unless terminated or extended by further Executive Order.

**EXECUTIVE ORDER NUMBER 133  
EXPANDING THE MEMBERSHIP OF  
GOVERNOR'S HIGHWAY  
BEAUTIFICATION COUNCIL**

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

The first sentence of Section 2 of Executive Order Number 126 is amended in part to read, "The Council shall consist of 15 members to be appointed by the Governor and who shall serve at the pleasure of the Governor." The final sentence of Section 2 is amended to read, "Eight members shall represent the State at large."

All other provisions of Executive Order Number 126 shall remain unchanged.

This Order shall be effective immediately.

Done in Raleigh, North Carolina this the 22nd day of February, 1991.

**EXECUTIVE ORDER NUMBER 134 GRANTING  
SPECIAL READJUSTMENT LEAVE TO  
EMPLOYEES OF THE STATE WHO HAVE  
SERVED WITH THE NATION'S ARMED  
FORCES DURING THE PERSIAN GULF  
CONFLICT**

North Carolina is proud of its sons and daughters who have served with the Nation's Armed Forces during the Persian Gulf Conflict. We have prayed for their safety and welcome their return. But that is not enough. We now must do all we can to help make their return to their everyday lives as easy as possible.

Many of those who served in our armed forces during the Persian Gulf Conflict were State employee National Guardsmen and reservists who interrupted their employment with the State and took military leave without pay to perform their military duties. Over the next few months they will be coming home to their families and friends and to resume their State employment. As an employer, the State can ease their transitions from their military to their civilian lives by granting to them a special readjustment leave, with pay, in which to reorder their affairs before returning to work.

THEREFORE, in grateful recognition of all that they have done for us by their service in the Armed Forces of the United States during the Persian Gulf Conflict and pursuant to authority

granted to me as Governor by Article III, Sec. 1 of the Constitution and North Carolina General Statutes §§143A-4 and 143B-4, it is ORDERED:

Section 1. Upon resuming their employment with the State all State employees on military leave without pay from their regular State employment on account of extended active duty with the Armed Forces of the United States during the Persian Gulf Conflict, shall be given 80 hours (10 days) special readjustment leave to be used by such employees prior to returning to work.

Section 2. For the purposes of this Executive Order:

- (a) "Persian Gulf Conflict" shall refer to that time beginning August 2, 1990, and ending when this Executive Order is revoked.
- (b) "State employees" shall refer to all persons employed by the State or agencies of the State who are paid in whole or in part with State funds, including employees of local education agencies and community colleges.

Section 3. This special readjustment leave shall be in addition to the regular leave earned by such State employees. Any such leave that is not used within twelve months after the recipient has returned to work or prior to his separation from State employment, shall be lost.

Section 4. This special readjustment leave shall be administered by the Office of State Personnel.

Section 5. The following Council of State members are hereby given special recognition for the concurrence and encouragement they have given to me in promulgating this executive order:

James C. Gardner  
Lieutenant Governor

Harlan E. Boyles  
State Treasurer

John C. Brooks  
Commissioner of Labor

Rufus L. Edmisten  
Secretary of State

Bobby R. Ethridge  
Superintendent of Public Instruction

James A. Graham  
Commissioner of Agriculture

## *EXECUTIVE ORDERS*

---

James E. Long  
Commissioner of Insurance

Edward Renfrow  
State Auditor

Lacy H. Thornburg  
Attorney General

Special recognition is also given to the State Personnel Commission and Office of State Personnel for their endorsement of the same.

Section 6. This executive order shall be effective immediately and shall continue in effect until revoked by me or my successor.

Done in Raleigh, North Carolina this 7th day of March, 1991.

**TITLE 4 - DEPARTMENT OF ECONOMIC  
AND COMMUNITY DEVELOPMENT**

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Alcoholic Beverage Control Commission intends to amend rule(s) cited as 4 NCAC 2R .1502.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 9:30 a.m. on May 3, 1991 at the Commission Hearing Room, 3322 Garner Road, Raleigh, NC 27610.*

*Comment Procedures: Written comments and arguments should be submitted prior to May 3, 1991 to the ABC Commission, P.O. Box 26687, Raleigh, N.C. 27611-6687. Persons desiring to speak at the hearing are requested to notify the ABC Commission at (919) 779-0700 prior to May 3, 1991. Fiscal Note pursuant to G.S. 150B-11(4) may be obtained from the agency.*

**CHAPTER 2 - ALCOHOLIC BEVERAGE  
CONTROL COMMISSION**

**SUBCHAPTER 2R - ORGANIZATIONAL RULES:  
POLICES AND PROCEDURES**

**SECTION .1500 - PRICING OF SPIRITUOUS  
LIQUOR**

**.1502 MARKUP FORMULA**

(a) On every delivered case of spirituous liquors, there is to be added a ~~75.3684~~ 77.5250 percent markup, which is derived by the following formula: (x) equals the base price of the case, including freight and bailment charges. ~~Thirty-three and thirty-six~~ Thirty-five hundredths percent equals the markup allowed local boards; therefore, ~~1.3336(x)~~ 1.3500(x) equals the delivered case cost plus the ~~33.36~~ 35.00 percent local markup, or the "retail price," excluding all taxes.

*Example:* ~~333600(x)~~ 333600(x) local markup  
~~373408(x)~~ 373408(x) state tax [28% of  
~~1.3336(x)~~ 1.3336(x)]  
~~0.16676(x)~~ 0.16676(x) state tax retained locally  
[3.5% of ~~1.3336(x)~~ 1.3336(x)]  
~~753681(x)~~ 775250(x) total markup

*Example:* ~~350000(x)~~ 350000(x) local markup  
~~378000(x)~~ 378000(x) state tax [28% of  
~~1.3500(x)~~ 1.3500(x)]  
~~0.47250(x)~~ 0.47250(x) state tax retained locally  
[3.5% of ~~1.3500(x)~~ 1.3500(x)]  
~~775250(x)~~ 775250(x) total markup

(b) The selling price of spirituous liquor, which includes the cost of goods, local markup and all taxes, is derived by following these steps:

- (1) Determine the subtotal case cost by adding base case cost, freight and bailment together;
- (2) Multiply the subtotal case cost by ~~1.753684~~ 1.775250, to four decimals;
- (3) Add the bailment surcharge as determined by the commission;
- (4) Divide the result by the number of bottles in the case;
- (5) Add five cents (\$.05) rehabilitation tax [Add one cent (\$.01) for bottles 50 ml. or less];
- (6) Add five cents (\$.05) for the local board charge [Add one cent (\$.01) for bottles 50 ml. or less];
- (7) Round the result to an integer evenly divisible by five cents (\$.05). The breaking point is one cent (\$.01), 1 mill; the mill is underlined.  
(A) If cent equals \$.00, it remains \$.00;  
(B) If cent equals \$.05, it remains \$.05;  
(C) If cent equals \$.010, (mill is 0), round downward to \$.00;  
(D) If cent equals \$.011, (if mill is 1-9), round upward to \$.05;  
(E) If cent equals \$.060, (mills is 0), round downward to \$.05;  
(F) If cent equals \$.061, (if mill is 1-9), round upward to \$.10;  
(G) If cent equals \$.411, .42, .43, .44, round upward to \$.45;  
(H) If cent equals \$.461, .47, .48, .49, round upward to \$.50;
- (8) The result is the retail selling price per bottle.

**(c) Example:**

\$38.55	Distiller's Price
.60	Distiller's Freight
+ .85	Bailment charges
40.00	Subtotal case cost
+ 13.3440	Markup (\$40.00 X 33.36%)
	G.S. 18B-801(b)(2)
53.3440	
11.9364	State Tax (53.3440 X 28%)
	G.S. 18B-801(b)(1)
1.8671	Additional markup
	(53.3440 X 3.5%)
	G.S. 18B-801(b)(5)
70.1475	Case cost to four decimals
+ .56	Bailment surcharge
	G.S. 18B-801(b)(6a)
70.7075	
42	Divide by the number of bottles in the case



## PROPOSED RULES

5.8023	
.05	Add bottle charge G.S. 18B-804(b)(6)
.05	Add additional bottle charge G.S. 18B-804(b)(6b)
5.0023	Round the result to an integer evenly divisible by five cents (\$.05)
\$ 6.00	Retail selling price per bottle to an individual
+ 2.81	Mixed beverage tax G.S. 18B-804(b)(8)
\$ 8.81	Selling price to a mixed beverage permittee
or:	
\$ 38.55	Distiller's Price
.60	Distiller's Freight
.85	Bailment charges
40.00	Subtotal case cost
1.753684	
	Markup formula (includes markup and required taxes)
70.1474	Case cost to four decimals
+ .56	Add bailment surcharge
70.7074	
12	Divide by number of bottles in the case
5.8023	
.05	Add bottle charge
.05	Add additional bottle charge
5.0023	Round the result to an integer evenly divisible by five cents (\$.05)
\$ 6.00	Retail selling price per bottle to an individual
+ 2.81	Mixed beverage tax
\$ 8.81	Selling price to a mixed beverage permittee

Statutory Authority G.S. 18B-203(a)(3);  
18B-207; 18B-804.

### TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

*Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services intends to adopt rule(s) cited as 10 NCAC 14K .0366 - .0367.*

*The proposed effective date of this action is August 28, 1991.*

*The public hearing will be conducted at 10:00 a.m. on May 15, 1991 at the Archdale Building, 512 N. Salisbury St., Raleigh, NC 27604-1159, Public Hearing Room - Ground Floor.*

*Comment Procedures: Any interested person may present his comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Marilyn Brothers, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 325 N. Salisbury St., Raleigh, NC 27603, (919) 733-4774 by May 14, 1991. Written comments must be sent to the above address and must state the rule(s) to which the comments are addressed. Fiscal information on these Rules is also available from the same address.*

### CHAPTER 14 - MENTAL HEALTH: GENERAL

#### SUBCHAPTER 14K - CORE LICENSURE RULES FOR MENTAL HEALTH: MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES: AND SUBSTANCE ABUSE FACILITIES

#### SECTION .0300 - FACILITY AND PROGRAM MANAGEMENT

#### .0366 APPLICABLE CLIENTS' RIGHTS STATUTES

Each facility shall have and implement policies and procedures to ensure the rights of clients. These procedures shall be in accordance with the following statutes, as applicable:

- (1) G.S. 122C-51. Declaration of policy on clients' rights;
- (2) G.S. 122C-52. Right to confidentiality;
- (3) G.S. 122C-53. Exceptions; client;
- (4) G.S. 122C-54. Exceptions; abuse reports and court proceedings;
- (5) G.S. 122C-55. Exceptions; care and treatment;
- (6) G.S. 122C-56. Exceptions; research and planning;
- (7) G.S. 122C-57. Right to treatment and consent to treatment;
- (8) G.S. 122C-58. Civil rights and civil remedies;
- (9) G.S. 122C-59. Use of corporal punishment;
- (10) G.S. 122C-60. Use of physical restraints or seclusion;
- (11) G.S. 122C-61. Treatment rights in 24-hour facilities;
- (12) G.S. 122C-62. Additional rights in 24-hour facilities;
- (13) G.S. 122C-65. Offenses relating to clients;

- (14) G.S. 122C-66. Protection from abuse and exploitation; reporting; and
- (15) G.S. 130A-143. Confidentiality of information regarding communicable diseases and conditions.

*Statutory Authority G.S. 122C-26; 122C-51 through 122C-62; 122C-65; 122C-66; 130A-143; 143B-147.*

**.0367 USE OF INTERVENTION PROCEDURES**

(a) For the purposes of this Rule, the following definitions apply to Paragraphs (b), (c) and (d) of this Rule:

- (1) "Isolation time out" means the removal of a client from positive reinforcement to a separate room from which exit is barred but which is not locked and where there is continuous supervision by staff.
  - (2) "Restraint" means the limitation of a client's freedom of movement by:
    - (A) physical hold for the purpose of subduing the client;
    - (B) "mechanical restraint" which is the use of mechanical devices for the purpose of controlling behavior including, but not limited to, cuffs, ankle straps, sheets, or restraining shirts; or
    - (C) "protective restraint" which is the use of protective devices to provide support and safety for weak and feeble clients, or to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, etc. Such devices may include posey vests, geri-chairs, table-top chairs or soft ties.
  - (3) "Restrictive facility" means a facility which employs the use of mechanical restraint or seclusion in order to restrict a client's freedom of movement. A judicial determination as specified in G.S. 122C-223 and 122C-232 is required for minor clients and incompetent adult clients who are admitted to a restrictive facility.
  - (4) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.
- (b) The use of mechanical restraint or seclusion shall be as follows:
- (1) Those facilities which intend to employ the use of mechanical restraint or seclusion of a client shall be designated as a restrictive facility by the Division of Facility Services.
  - (2) The use of mechanical restraint and seclusion shall be limited to those instances specified in G.S. 122C-60. Those proce-

dures shall be administered only by staff whose credentials, training and experience have been examined and determined by the governing body to be adequate to qualify staff to employ such procedures.

- (3) The governing body shall determine which forms of mechanical restraint or seclusion may be utilized by the facility. There shall be written policies and procedures that govern mechanical restraint and seclusion to include the following:
  - (A) training of all staff who are authorized to use mechanical restraint or seclusion and documentation of such training; and
  - (B) requirements for documentation regarding the use of mechanical restraint or seclusion in the client record to include, but not be limited to:
    - (i) a description of the mechanical restraint or seclusion procedures and the date and time of its use;
    - (ii) the rationale for mechanical restraint or seclusion which addresses the inadequacy of less restrictive intervention techniques;
    - (iii) a description of the client's behavior indicating imminent danger of abuse or injury to himself or others, or substantial property damage;
    - (iv) the frequency, intensity, and duration of the behavior and any precipitating circumstances contributing to the onset of the behavior; and
    - (v) the signature and title of the employee responsible for the use of the procedure.
- (4) Mechanical restraint or seclusion shall not be employed as retaliatory punishment or for the convenience of staff or used in a manner that causes harm or undue physical discomfort or pain to a client. When mechanical restraint or seclusion is used as a part of a behavior modification program, positive alternatives shall always accompany these procedures.
- (5) Any room used for seclusion shall meet the following criteria:
  - (A) The room shall be designed and constructed to ensure the health, safety and well-being of the client.
  - (B) The floor space shall not be less than 60 square feet, with a ceiling height of not less than eight feet.
  - (C) Floor and wall coverings, as well as any contents of the room, shall have a one-hour fire rating and shall not produce toxic fumes if burned.
  - (D) The walls shall be kept completely free of objects.

- (E) A lighting fixture, equipped with a minimum of a 75 watt bulb, shall be mounted in the ceiling and be screened to prevent tampering by the client.
- (F) One door of the room shall be equipped with a window mounted in a manner which allows inspection of the entire room. Glass in any windows shall be impact-resistant and shatterproof.
- (G) The room temperature and ventilation shall be comparable and compatible with the rest of the facility.
- (H) In a room where the door is not under direct observation by staff and if a staff person is not assigned to continuously observe the area during the duration of the confinement, the lock on the room shall be interlocked with the fire alarm system so that the door automatically unlocks when the fire alarm is activated.
- (6) A staff member determined qualified to administer mechanical restraint and seclusion may employ such procedures for periods up to one hour without the order of a physician.
- (7) In order to continue the use of mechanical restraint or seclusion for longer than one hour, a physician shall be consulted. The physician shall conduct a clinical assessment of the client in order to ascertain that the procedure is justified. If the physician concurs that mechanical restraint or seclusion is needed for longer than one hour, he shall write an order to continue the procedure. The physician's order shall be written within 12 hours from the time of initial employment of the procedure.
- (8) If a physician is not immediately available to the facility, a qualified professional, who has experience and training in the use of mechanical restraints and seclusion and who has been deemed qualified to employ such procedures, shall be consulted as an interim measure. The qualified professional shall observe and assess the client before ordering continued use of mechanical restraint or seclusion. If it is not possible for the qualified professional to assess the client prior to issuing the order, he shall observe and assess the client within one hour after ordering continuation of the procedure. The order written by the qualified professional shall be considered a temporary order which is valid only until a physician conducts an assessment and writes an order. However, the qualified professional's order is valid for no more than 12 hours.
- (9) Whenever mechanical restraint or seclusion is ordered, the following requirements shall be met:
  - (A) The order shall specify the reason for restraining or secluding the client and the estimated amount of time needed.
  - (B) Written orders shall be time-limited:
    - (i) Physician's orders shall not exceed 24 hours from initial employment of the procedure.
    - (ii) Qualified professional's orders shall not exceed 12 hours from initial employment of the procedure.
  - (C) If the client is unable to gain self-control within the time-frame specified in the written order, a new order shall be obtained.
  - (D) Standing orders or PRN orders shall not be used to authorize the use of mechanical restraint or seclusion.
- (10) While the client is in mechanical restraint or seclusion, the following precautions shall be followed:
  - (A) Periodic observation of a client shall occur at least every 15 minutes, or more often as necessary, to assure the safety and physical well-being of the client. Appropriate attention shall be paid to the provision of regular meals, bathing, and the use of the toilet. Such observation and attention shall be documented in the client record.
  - (B) When mechanical restraint is used in the absence of seclusion and the client may be subject to injury, a staff member shall remain present with the client continuously.
- (11) The client shall be removed from restraint or seclusion when he no longer demonstrates dangerous behavior. In no case shall the client remain in mechanical restraint or seclusion longer than one hour after gaining behavioral control unless the client is asleep during regularly scheduled sleeping hours.
- (12) Reviews and reports on the use of mechanical restraint and seclusion shall be conducted as follows:
  - (A) All uses shall be reported daily to the Facility Director or his designee.
  - (B) The Facility Director or his designee shall review daily all uses and investigate unusual or possibly unwarranted patterns of utilization.
  - (C) Each Facility Director or his designee shall maintain a statistical record of the

- use of these procedures which shall be available on a monthly basis to the governing body and to the licensing agency, upon request, and shall be retained by the facility for a minimum of 24 months.
- (c) The use of isolation time-out shall be as follows:
- (1) Isolation time-out may be used in non-restrictive facilities. This procedure shall be employed only when there is imminent danger of abuse or injury to the client or others, when substantial property damage is occurring, or when isolation time-out is necessary as a measure of therapeutic treatment.
  - (2) Isolation time-out shall be administered only by staff whose credentials, training and experience have been examined and determined by the governing body to be adequate to qualify staff to employ such procedure.
  - (3) The governing body shall determine acceptable procedures for employing isolation time-out. There shall be written policies and procedures that govern isolation time-out to include the following:
    - (A) training of all staff who are authorized to use isolation time-out and documentation of such training; and
    - (B) requirements for documentation regarding the use of isolation time-out in the client record to include, but not be limited to:
      - (i) a description of the isolation time-out procedure and the date and time of its use;
      - (ii) the rationale for isolation time-out which addresses the inadequacy of less restrictive intervention techniques;
      - (iii) a description of the client's behavior indicating imminent danger of abuse or injury to himself or others, or substantial property damage;
      - (iv) the frequency, intensity, and duration of the behavior and any precipitating circumstances contributing to the onset of the behavior; and
      - (v) signature and title of the employee responsible for the use of the procedure.
  - (4) Isolation time-out shall not be employed as retaliatory punishment or for the convenience of staff or used in a manner that causes harm to a client. When isolation time-out is used as part of a behavior modification program, positive alternatives shall always accompany these procedures.
  - (5) Any room used for isolation time-out shall meet the following criteria:
    - (A) The room shall be designed and constructed to ensure the health, safety and well-being of the client.
    - (B) The floor space shall not be less than 50 square feet, with a ceiling height of not less than eight feet.
    - (C) Floor and wall coverings, as well as any contents of the room, shall have a one-hour fire rating and shall not produce toxic fumes if burned.
    - (D) The walls shall be kept completely free of objects.
    - (E) A lighting fixture, equipped with a minimum of a 75 watt bulb, shall be mounted in the ceiling and be screened to prevent tampering by the client.
    - (F) One door of the room shall be equipped with a window mounted in a manner which allows inspection of the entire room. Glass in any windows shall be impact-resistant and shatterproof.
    - (G) The room temperature and ventilation shall be comparable and compatible with the rest of the facility.
  - (6) A staff member determined qualified to administer isolation time-out shall authorize each use of isolation time-out, up to two hours within any 24 hour period. The qualified professional shall observe and assess the client before authorizing the use of isolation time-out. Each authorization shall be for no more than one hour's duration. Whenever a client is placed in isolation time-out for more than two hours in any 24 hour period, the Director of the facility or his designee shall assess the client in order to ascertain that the procedure is justified. If the Facility Director or his designee agrees with the qualified professional, he shall be responsible for authorizing each additional placement in isolation time-out during that 24 hour period.
  - (7) Whenever isolation time-out is authorized, the following requirements shall be met:
    - (A) The authorization shall specify the reason for isolation time-out and the estimated amount of time needed.
    - (B) Authorization shall be time-limited and shall not exceed one hour per authorization, or two hours within any 24 hour period.
    - (C) If the client is unable to gain self-control within the time-frame specified in

the authorization, the Facility Director or his designee shall be consulted.

- (8) While the client is in isolation time-out, there shall be a staff person in attendance with no other immediate responsibility than to monitor the client who is placed in isolation time-out. There shall be continuous observation and verbal interaction with the client. Such observations shall be documented in the client record.
- (9) The client shall be removed from isolation time-out when he no longer demonstrates dangerous behavior.
- (10) Reviews and reports on the use of isolation time-out shall be conducted as follows:
  - (A) All uses shall be reported daily to the Facility Director or his designee.
  - (B) The Facility Director or his designee shall review daily all uses and investigate unusual or possibly unwarranted patterns of utilization.
  - (C) Each Facility Director or his designee shall maintain a statistical record of the use of this procedure which shall be available on a monthly basis to the governing body. Such records shall be retained by the facility for a minimum of 24 months.
- (d) Whenever protective restraint is used, the governing body shall ensure that:
  - (1) the necessity for the protective devices has been assessed and the device applied by an individual who has been trained and clinically privileged in the utilization of protective devices;
  - (2) the client is frequently observed and provided opportunities for such activities as toileting and exercise, as needed, but no less often than every two hours;
  - (3) whenever a client is restrained and subject to injury by another client, a staff member shall remain present with the client continuously;
  - (4) observations and interventions shall be documented in the client's record; and
  - (5) the utilization of protective devices shall be documented in the client's nursing care plan, when applicable, and treatment/ habilitation plan.

Statutory Authority G.S. 122C-26; 122C-51; 122C-53; 122C-60; 131E-67; 143B-147.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources/Division of Medical Assistance intends to amend rule(s) cited as 10 NCAC 26H .0205.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 1:30 p.m. on May 2, 1991 at the North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 201, Raleigh, N.C. 27603.*

*Comment Procedures: Written comments concerning this amendment must be submitted by May 2, 1991, to: Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina 27603, ATTN.: Bill Hottel, APA Coordinator. Oral comments may be presented at the hearing. In addition, a fiscal impact statement is available upon written request from the same address.*

## CHAPTER 26 - MEDICAL ASSISTANCE

### SUBCHAPTER 26H - REIMBURSEMENT PLANS

#### SECTION .0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN

##### .0205 PAYMENT FOR LOWER THAN ACUTE LEVEL OF CARE

(a) Days for authorized skilled nursing or intermediate care level of service rendered in an acute care hospital will be reimbursed at a rate equal to the average cost of all such Medicaid days based on rates in effect for the long term care plan year beginning ~~October 1, 1981~~ October 1,

(b) Days for ventilator-dependent patients may be paid for up to 180 days after the three administrative days if the hospital is unable to place the patient in a lower level facility. An extension may be granted. A single all-inclusive prospective per diem rate is paid, equal to the average rate paid to nursing facilities for ventilator-dependent services. The hospital must actively seek placement of the patient in an appropriate facility.

Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 C.F.R. 447, Subpart C.

## TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

## PROPOSED RULES

*Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Health Services and Department of Environment, Health, and Natural Resources intends to adopt rule(s) cited as 15A NCAC 13A .0016 - .0017.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 1:30 p.m. on May 1, 1991 at the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.*

*Comment Procedures: Any person may request copies of the proposed rules by contacting John P. Barkley, DEHNR, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-7247. Written comments on these rules may be sent to Mr. Barkley at the above address or submitted at the public hearing. If you desire to speak at the public hearing, notify Mr. Barkley at least three days prior to the public hearing. At the discretion of the Chairman, the public may also be allowed to comment on the rules at the Commission Meeting. Fiscal notes on these rules are available from Mr. Barkley.*

### CHAPTER 13 - SOLID WASTE MANAGEMENT

#### SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT

##### .0016 SPECIAL PURPOSE COMMERCIAL HAZARDOUS WASTE FACILITY

(a) The Department shall evaluate all commercial hazardous waste facilities to determine a score for each facility in accordance with Paragraph (b) of this Rule.

(b) A score for each facility shall be determined by adding the total score for Subparagraphs (b)(1) - (b)(7) of this Rule and subtracting the score for Subparagraph (b)(8) of this Rule.

(1) A score shall be assigned for smallness of the facility by adding the applicable score for storage and the applicable score for treatment using Table 1.

TABLE 1

<u>Smallness of Facility</u>	<u>Permit Capacity</u>	<u>Score</u>
Storage:	< 10,000	1
(gallons)	10,000-100,000	2
	> 100,000	3

Treatment:	< 10,000	1
(gallons/	10,000-100,000	2
per day)	> 100,000	3

(2) A score shall be assigned for type of treatment permitted by adding the score for each type of treatment performed by the facility using Table 2.

TABLE 2

<u>Type of Treatment Permitted</u>	<u>Score</u>
Storage Only	1
Solvent Recovery	2
Metal Recovery	2
Energy Recovery	2
Fuel Blending	2
Aqueous Treatment	3
Stabilization	2
Incineration	5
Residuals Management	5
Other Treatment	2

(3) A score shall be assigned for the nature of waste by adding the score for acute waste, if acute waste totals more than 1,000 pounds, and the score for each other type of waste that constitutes ten percent or more of the total waste handled by the facility, using Table 3. However, if the facility is permitted for storage only and no treatment is performed, the score for nature of waste shall be reduced by one-half.

TABLE 3

<u>Nature of Waste (from Annual Report)</u>	<u>Score</u>
Corrosive	1
Ignitable	2
Reactive	2
Toxicity Characteristic	2
Listed Toxic	2
Acute	3

(4) A score shall be assigned for volume of waste by using the applicable score in Table 4.

TABLE 4

<u>Volume of Waste (Tons from Annual Report)</u>	<u>Score</u>
< 2,000	1

# PROPOSED RULES

2,000-10,000	2
10,000-20,000	3

- (5) A score shall be assigned for uniformity, similarity and lack of diversity of waste streams by using the applicable score in Table 5.

TABLE 5

<u>Uniformity, Similarity, Lack of Diversity of Waste Streams (EPA Waste Numbers)</u>	<u>Score</u>
< 5	1
5-75	2
> 75	3

- (6) A score shall be assigned for predictability and treatability of waste streams by using the applicable score in Table 6.

TABLE 6

<u>Predictability and Treatability of Waste Streams</u>	<u>Score</u>
Simple Waste Stream and Treatment	1
Complex and/or Incompatible	2

- (7) A score shall be assigned for compliance history for the past two years by using the highest applicable score in Table 7.

TABLE 7

<u>Compliance History for Past Two Years</u>	<u>Score</u>
Class II Violations	1
Class I Violations	2
Penalties or Injunctions	3

- (8) A score shall be assigned for on-site reclamation by using the applicable score in Table 8.

TABLE 8

<u>On-site Reclamation (Credit Given)</u>	<u>Score</u>
Pretreatment	1
Reclamation	2

- (c) A commercial hazardous waste facility (other than an incinerator or a land disposal facility) with a volume of waste of 20,000 tons or less per year and having a total score pursuant to

Paragraph (b) of this Rule of less than 30 is designated as a special purpose commercial hazardous waste facility. These facilities shall be classified as follows:

<u>Total Score</u>	<u>Category</u>
1 - 11	1
12 - 20	2
21 - 29	3

(d) The information referred to in Paragraph (b) of this Rule shall be determined based on the facility's permit, the previous year's annual report, and compliance history. If no annual report was submitted, quarterly projections of waste volume shall be submitted to the Department by the facility. Each facility may be re-evaluated at any time new information is received by the Department concerning the factors in Paragraph (b) of this Rule.

(e) The frequency of inspections at special purpose commercial hazardous waste facilities shall be determined by the facility's classification as follows:

<u>Category</u>	<u>Minimum Inspections</u>
1	2 per month
2	4 per month
3	6 per month

Statutory Authority G.S. 130A-295.02(j).

## .0017 FEE SCHEDULES

(a) A commercial hazardous waste storage, treatment, or disposal facility other than a special purpose facility shall pay monthly, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities as required by G.S. 130A-294.1, a charge of forty-one dollars (\$41.00) per hour of operation. The fee shall be paid for any time when hazardous waste is managed or during periods of maintenance, repair, testing, or calibration. Each facility shall submit an operational schedule to the Department on a quarterly basis.

(b) A special purpose commercial hazardous waste facility shall pay monthly, in addition to the fees applicable to all hazardous waste treatment, storage or disposal facilities as required by G.S. 130A-294.1, a charge of three dollars (\$3.00) per ton of hazardous waste received during the previous month and an additional charge based on the frequency of inspections as follows:

<u>Category</u>	<u>Fee</u>
-----------------	------------

## PROPOSED RULES

1	\$888.00
2	\$1,776.00
3	\$2,664.00

*Statutory Authority G.S. 130A-295.02(h).*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Health Services and Department of Environment, Health, and Natural Resources intends to amend rule(s) cited as 15A NCAC 13A .0006, .0009 - .0011, .0013; 16A .0702, .0711; 18A .1937, .1952, .1954 - .1955, .1958, .1961 - .1962; 18C .0102; 19B .0503; 19C .0601 - .0607; 21A .0817; 26A .0001; and adopt rule(s) cited as 15A NCAC 16A .0211.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 1:30 p.m. on May 1, 1991 at the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.*

*Comment Procedures: Any person may request copies of the proposed rules by contacting John P. Barkley, DEHNR, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-7247. Written comments on these rules may be sent to Mr. Barkley at the above address or submitted at the public hearing. If you desire to speak at the public hearing, notify Mr. Barkley at least 3 days prior to the public hearing. At the discretion of the Chairman, the public may also be allowed to comment on the rules at the Commission Meeting. Fiscal notes on applicable rules are available from Mr. Barkley.*

### **CILAPTER 13 - SOLID WASTE MANAGEMENT**

#### **SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT**

##### **.0006 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PART 261**

(d) 40 CFR 261.30 through ~~261.33~~ 261.35 (Subpart D), "Lists of Hazardous Wastes" have been adopted by reference in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 130A-294(c).*

##### **.0009 STANDARDS FOR OWNERS/ OPERATORS OF HWTSDF FACILITIES - PART 264**

(r) The following are additional location standards for facilities:

(1) In addition to any other location standards set forth elsewhere in these Rules, the Department, in determining whether to issue a permit for a hazardous waste management facility, shall consider the risks posed by the proximity of the facility to water table levels, flood plains, water supplies, public water supply watersheds, mines, natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers and shall consider whether provision has been made for adequate buffer zones. The Department shall also consider ground water travel time, soil pH, soil cation exchange capacity, soil composition and permeability, slope, climate, local land use, transportation factors such as proximity to waste generators, route, route safety, and method of transportation, aesthetic factors such as the visibility, appearance, and noise level of the facility; potential impact on air quality, existence of seismic activity and cavernous bedrock.

(2) The following minimum separation distances shall be required of all hazardous waste management facilities except that existing facilities shall be required to meet these minimum separation distances to the maximum extent feasible:

(A) All hazardous waste management facilities shall be located at least 0.25 miles from institutions including but not limited to schools, health care facilities and prisons, unless the owner or operator can demonstrate that no unreasonable risks shall be posed by the proximity of the facility.

(B) All hazardous waste treatment and storage facilities shall comply with the following separation distances: all hazardous waste shall be treated and stored a minimum of 50 feet from the property line of the facility; except that all hazardous waste with ignitable, incompatible or reactive characteristics shall be treated and stored a minimum of 200 feet from the property line of the facility if the area adjacent to the facility is zoned for any use other than industrial or is not zoned.

(C) All hazardous waste landfills, long-term storage facilities, land treatment facilities and surface impoundments, shall comply with the following separation distances:



- (i) All hazardous waste shall be located a minimum of 200 feet from the property line of the facility;
  - (ii) Each hazardous waste landfill, long-term storage or surface impoundment facility shall be constructed so that the bottom of the facility is 10 feet or more above the historical high ground water level. The historical high ground water level shall be determined by measuring the seasonal high ground water levels and predicting the long-term maximum high ground water level from published data on similar North Carolina topographic positions, elevations, geology, and climate; and
  - (iii) All hazardous waste shall be located a minimum of 1,000 feet from the zone of influence of any existing off-site ground water well used for drinking water, and outside the zone of influence of any existing or planned on-site drinking water well.
- (D) Hazardous waste storage and treatment facilities for liquid waste that is classified as ~~EP TC~~ toxic, toxic, or acutely toxic and is stored or treated in tanks or containers shall not be located:
- (i) in the recharge area of an aquifer which is designated as an existing sole drinking water source as defined in the Safe Drinking Water Act, Section .1424(e) [42 U.S.C. 300h-3(e)] unless an adequate secondary containment system is constructed, and after consideration of applicable factors in (r)(3) of this Rule, the owner or operator can demonstrate no unreasonable risk to public health;
  - (ii) within 200 feet of surface water impoundments or surface water stream with continuous flow as defined by the United States Geological Survey;
  - (iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15 NCAC 2B .0200 and 10 NCAC 10D .0702(6);
  - (iv) in an area that will allow direct surface or subsurface discharge to the watershed for a Class I or II Reservoir as defined in 10 NCAC 10D .0702 (4) and (5);
  - (v) within 200 feet horizontally of a 100-year floodplain elevation;
  - (vi) within 200 feet of a seismically active area as defined in (c) of this Rule; and
  - (vii) within 200 feet of a mine, cave, or cavernous bedrock.
- (3) The Department may require any hazardous waste management facility to comply with greater separation distances or other protective measures necessary to avoid unreasonable risks posed by the proximity of the facility to water table levels, flood plains, water supplies, public water supply watersheds, mines, natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers or to provide an adequate buffer zone. The Department may also require protective measures necessary to avoid unreasonable risks posed by the soil pH, soil cation exchange capacity, soil composition and permeability, climate, transportation factors such as proximity to waste generators, route, route safety, and method of transportation, aesthetic factors such as the visibility, appearance, and noise level of the facility, potential impact on air quality, and the existence of seismic activity and cavernous bedrock. In determining whether to require greater separation distances or other protective measures, the Department shall consider the following factors:
- (A) All proposed hazardous waste activities and procedures to be associated with the transfer, storage, treatment or disposal of hazardous waste at the facility;
  - (B) The type of hazardous waste to be treated, stored, or disposed of at the facility;
  - (C) The volume of waste to be treated, stored, or disposed of at the facility;
  - (D) Land use issues including the number of permanent residents in proximity to the facility and their distance from the facility;
  - (E) The adequacy of facility design and plans for containment and control of sudden and non-sudden accidental events in combination with adequate off-site evacuation of potentially adversely impacted populations;
  - (F) Other land use issues including the number of institutional and commercial structures such as airports and schools in proximity to the facility, their distance from the facility, and the particular nature of the activities that take place in those structures;
  - (G) The lateral distance and slope from the facility to surface water supplies or to

- watersheds draining directly into surface water supplies;
- (H) The vertical distance, and type of soils and geologic conditions separating the facility from the water table;
  - (I) The direction and rate of flow of ground water from the sites and the extent and reliability of on-site and nearby data concerning seasonal and long-term groundwater level fluctuations;
  - (J) Potential air emissions including rate, direction of movement, dispersion and exposure whether from planned or accidental, uncontrolled releases; and
  - (K) Any other relevant factors.
- (4) The following are additional location standards for landfills, long-term storage facilities and hazardous waste surface impoundments:
- (A) A hazardous waste landfill, long-term storage, or a surface impoundment facility shall not be located:
    - (i) in the recharge area of an aquifer which is an existing sole drinking water source;
    - (ii) within 200 feet of a surface water stream with continuous flow as defined by the United States Geological Survey;
    - (iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15 NCAC 2B .0200 and 10 NCAC 10D .0702(6);
    - (iv) in an area that will allow direct surface or subsurface discharge to a watershed for a Class I or II Reservoir as defined in 10 NCAC 10D .0702(4) and (5);
    - (v) within 200 feet horizontally of a 100-year flood hazard elevation;
    - (vi) within 200 feet of a seismically active area as defined in (c) of this Rule; and
    - (vii) within 200 feet of a mine, cave or cavernous bedrock.
  - (B) A hazardous waste landfill or long-term storage facility shall be located in highly weathered, relatively impermeable clayey formations with the following soil characteristics:
    - (i) The depth of the unconsolidated soil materials shall be equal to or greater than 20 feet;
    - (ii) The percentage of fine grained soil material shall be equal to or greater than 30 percent passing through a number 200 sieve;
    - (iii) Soil liquid limit shall be equal to or greater than 30;
    - (iv) Soil plasticity index shall be equal to or greater than 15;
    - (v) Soil compacted hydraulic conductivity shall be a maximum of  $1.0 \times 10^{-7}$  cm/sec;
    - (vi) Soil Cation Exchange Capacity shall be equal to or greater than 5 milliequivalents per 100 grams;
    - (vii) Soil Potential Volume Change Index shall be equal to or less than 4; and
    - (viii) Soils shall be underlain by a competent geologic formation having a rock quality designation equal to or greater than 75 percent unless other geological conditions afford adequate protection of public health and the environment.
  - (C) A hazardous waste landfill or long-term storage facility shall be located in areas of low to moderate relief to the extent necessary to prevent landsliding or slippage and slumping. The site may be graded to comply with this standard.
- (5) All new hazardous waste impoundments that close with hazardous waste residues left in place shall comply with the standards for hazardous waste landfills in (r)(4) of this Rule unless the applicant can demonstrate that equivalent protection of public health and environment is afforded by some other standard.
- (6) The owners and operators of all new hazardous waste management facilities shall construct and maintain a minimum of two observation wells, one upgradient and one downgradient of the proposed facility; and shall establish background groundwater concentrations and monitor annually for all hazardous wastes that the owner or operator proposes to store, treat, or dispose at the facility.
- (7) The owners and operators of all new hazardous waste facilities shall demonstrate that the community has had an opportunity to participate in the siting process by complying with the following:
- (A) The owners and operators shall hold at least one public meeting in the county in which the facility is to be located to inform the community of all hazardous waste management activities including but not limited to: the hazardous properties of the waste to be managed; the type of management proposed for the wastes; the mass and volume of the wastes; and the source of the wastes; and to allow the community to identify specific health, safety and environmental concerns or problems expressed by the community

related to the hazardous waste activities associated with the facility. The owners and operators shall provide a public notice of this meeting at least 30 days prior to the meeting. Public notice shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting. The written transcript and other written material submitted or used at the meeting shall be submitted to the local public library closest to and in the county of the proposed site with a request that the information be made available to the public.

(B) For the purposes of this Rule, public notice shall include: notification of the boards of county commissioners of the county where the proposed site is to be located and all contiguous counties in North Carolina; a legal advertisement placed in a newspaper or newspapers serving those counties; and provision of a news release to at least one newspaper, one radio station and one TV station serving these counties. Public notice shall include the time, place, and purpose of the meetings required by this Rule.

(C) No less than 30 days after the first public meeting transcript is available at the local public library, the owners and operators shall hold at least one additional public meeting in order to attempt to resolve community concerns. The owners and operators shall provide public notice of this meeting at least 30 days prior to the meeting. Public notice shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting.

(D) The application, written transcripts of all public meetings and any additional material submitted or used at the meetings, and any additions or corrections to the application, including any responses to notices of deficiencies shall be submitted to the local library closest to and in the county of the proposed site,

with a request that the information be made available to the public until the permit decision is made.

(E) The Department shall consider unresolved community concerns in the permit review process and impose final permit conditions based on sound scientific, health, safety, and environmental principles as authorized by applicable laws or rules.

(s) 40 CFR 264.570 through 264.575 (Subpart W), "Drip Pads", have been adopted by reference in accordance with G.S. 150B-14(c).

(t) ~~(s)~~ 40 CFR 264.600 through 264.603 (Subpart X), "Miscellaneous Units", have been adopted by reference in accordance with G.S. 150B-14(c).

(u) ~~(t)~~ 40 CFR 264.1030 through 264.1049 (Subpart AA), "Air Emission Standards for Process Vents", have been adopted by reference in accordance with G.S. 150B-14(c).

(v) ~~(u)~~ 40 CFR 264.1050 through 264.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks", have been adopted by reference in accordance with G.S. 150B-14(c).

(w) ~~(v)~~ Appendices to 40 CFR Part 264 have been adopted by reference in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 130A-294(c).*

**.0010 INTERIM STATUS STDS FOR  
OWNERS-OP OF HWTSDF FACILITIES  
- PART 265**

(r) 40 CFR 265.440 through 265.445 (Subpart W), "Drip Pads", have been adopted by reference in accordance with G.S. 150B-14(c).

(s) ~~(r)~~ 40 CFR 265.1030 through 265.1049 (Subpart AA), "Air Emission Standards for Process Vents", have been adopted by reference in accordance with G.S. 150B-14(c).

(t) ~~(s)~~ 40 CFR 265.1050 through 265.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks" have been adopted by reference in accordance with G.S. 150B-14(c).

(u) ~~(t)~~ Appendices to 40 CFR Part 265 have been adopted by reference in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 130A-294(c).*

**.0011 STDS FOR THE MGMT OF SPECIFIC  
HW/TYPES HWM FACILITIES -  
PART 266**

(f) 40 CFR 266.100 through 266.122 (Subpart H), "Hazardous Waste Burned in Boilers and Industrial Furnaces", have been adopted by reference in accordance with G.S. 150B-14(c).

(g) Appendices to 40 CFR Part 266 have been adopted by reference in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 130A-294(c).*

**.0013 THE HAZARDOUS WASTE PERMIT PROGRAM - PART 270**

(i) 40 CFR 270.60 through ~~270.65~~ 270.66 (Subpart F), "Special Forms of Permits", have been adopted by reference in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 130A-294(c); 130A-295 (a) (1), (2), (c).*

**CHAPTER 16 - ADULT HEALTH**

**SUBCHAPTER 16A - CHRONIC DISEASE**

**SECTION .0200 - HOME HEALTH SERVICES**

**.0211 SPECIAL PROVISION**

(a) Notwithstanding any other provision of this Section, Home Health Services Program funds may be used to pay for the provision of in-home health care services as defined in 15A NCAC 16A .0701 when such services are provided by a certified home health agency which participates in the Health Care Services in the Home Demonstration Program codified at 15A NCAC 16A .0700.

(b) Home Health Services Program funds may be used by certified home health agencies which participate in the Health Care Services in the Home Demonstration Program to meet the matching fund requirements imposed by 15A NCAC 16A .0711(a).

*Statutory Authority G.S. 130A-5(3); 130A-223.*

**SECTION .0700 - HEALTH CARE SERVICES IN THE HOME DEMONSTRATION PROGRAM**

**.0702 DEFINITIONS**

The following definitions shall apply throughout this Section:

(1) "In Home Health Care Services" are skilled nursing, home health aide, therapy, medical social services, ancillary medical supplies, durable medical equipment, ~~case management~~, home mobility aids, telephone alert, physician services, nurse practitioner services, ~~psychologists~~ psychologists' services, ~~nutritionists~~ nutritionists' services, respiratory therapy services, personal care services, and self-care education services for persons with diabetes or hypertension, and case management; these services are pro-

vided at the patient's place of residence as a part of an agency approved plan of care.

(2) "Home Health Agency" is a public, private non-profit or private proprietary home health agency certified by Medicaid and Medicare.

(3) "Demonstration Program" means the Health Care Services in the Home Demonstration Program.

(4) "Skilled Nursing Services" are skilled nursing services as defined in Home Health Medicaid Manual (HHMM) Section 5202.1 which is adopted by reference in accordance with G.S. 150B-14(c). Copies of the HHMM may be inspected at or obtained from the Demonstration Program Office, ~~P.O. Box 2001, Raleigh, North Carolina 27602.~~

(5) "Home Health Aides Services" are home health aide services as defined in HHMM Section 5202.2.

(6) "Personal Care Services" are personal care services as defined in the Medicaid Provider Manual, which is adopted by reference in accordance with G.S. 150B-14(c), copies of which may be inspected at or obtained from the Demonstration Program Office.

(7) ~~(6)~~ "Therapy Services" are therapy services defined in HHMM Section 5202.3.

(8) ~~(7)~~ "Medical Social Services" are medical social services as defined in ~~42 C.F.R. 405.1226, HCFA-Pub. 11 Section 206.1,~~ which is adopted by reference in accordance with G.S. 150B-14(c). Copies of ~~the rule~~ which may be inspected at or obtained from the Demonstration Program Office, ~~P.O. Box 2001, Raleigh, North Carolina 27602.~~

(9) ~~(8)~~ "Durable Medical Equipment (DME)" is durable medical equipment as defined in ~~Health Care Financing Administration (HCFA) publication 15-1, HHMM Section 5202.5~~ which is adopted by reference in accordance with G.S. 150B-14(c). Copies ~~of HCFA publication 15-1~~ may be inspected at or obtained from the Home Health Services Demonstration Program Office, ~~P.O. Box 2001, Raleigh, North Carolina 27602.~~

(10) ~~(9)~~ "Medical Supplies" are medical supplies as defined in ~~HCFA publication 15-1, HHMM Section 5202.4~~ which is adopted by reference in accordance with G.S. 150B-14(c), copies of which may be inspected at or obtained from the Demonstration Program Office.

(11) ~~(10)~~ "Assessment Evaluations" are evaluations that identify individuals who are likely to be at risk of institutionalization or prolonged or frequent recurring hospitalization

and are likely to need but are unable to afford skilled medical or related health services in order to avoid institutionalization. Assessment evaluations are divided into two parts:

- (a) The pre-assessment screening to establish presumptive eligibility for the assessment; and
- (b) The comprehensive assessment to:
  - (i) determine the degree of risk for institutionalization or hospitalization if the individual does not receive or continue to receive skilled medical, health and related services in the home; and
  - (ii) conduct comprehensive in-home health, social, and environmental assessments to determine those who need skilled medical or related health services, those who need both, those who need other in-home services, those who have no need, and those whose needs cannot be met in the home.
- (12) ~~(11)~~ "Case Management" is the use of multiple and varied services including social, rehabilitative, skilled medical and related health services that are located, coordinated and monitored to meet the needs of eligible clients. Case management may only be provided in conjunction with at least one additional in home health care service.
- (13) ~~(12)~~ "Home Mobility Aids" are the provision of minor renovations or minor physical adaptations to the client's home when these adaptations are considered necessary to enable clients to remain in the home.
- (14) ~~(13)~~ "Telephone Alert" is a system that uses telephone lines to alert a central monitoring facility that there is a medical emergency in the household.
- (15) ~~(14)~~ "Physician Services" are services provided by a person licensed to practice medicine as required by North Carolina statute.
- (16) ~~(15)~~ "Physicians Assistant Services" are services provided by an individual authorized to perform medical acts under the supervision of a physician pursuant to G.S. 90-18.1.
- (17) ~~(16)~~ "Nurse Practitioners Services" are services provided by a Registered Nurse who has met the requirements of the regulations adopted by the Board of Medical Examiners and the Board of Nursing pursuant to G.S. 90-18.2.
- (18) ~~(17)~~ "Psychologists Services" are services provided by a person licensed to perform psychological analysis, therapy or research.
- (19) ~~(18)~~ "Nutritionists Services" are services provided by a registered dietician.

(20) ~~(19)~~ "Respiratory Therapy Services" are services for the treatment of disease by using breathing devices to restore maximum bodily function and preventing disability following disease. These services must be provided by a registered, certified respiratory therapist.

(21) ~~(20)~~ "Self-care Education Services" are those services that provide self-care skill development to enable patients diagnosed with chronic conditions to integrate such skills into their daily lives. Self care skills include, but are not limited to compliance with medication regimen; ability to administer the medication correctly; ability to follow meal plans and portion exchanges; ability to perform tests, including the ability to monitor blood glucose and blood pressure; and the ability to use exercise as a therapeutic modality.

(22) ~~(21)~~ "Demonstration Program Reimbursement Rate" is the:

- (a) agency rate or the maximum Medicaid rate, whichever is lower, for nursing services, home health aide services and therapy services, and home mobility aides and telephone alert systems;
- (b) interim Medicare rate for medical social services, durable medical equipment and ancillary medical supplies; and
- (c) schedule of payments that shall be developed by the Division of Adult Health for assessment evaluation services, self-care education services, nutrition services, case management services, physicians services, physician assistant services, family nurse practitioner services, psychologist services and other covered services for which neither Medicaid nor Medicare has an established reimbursement rate.

(23) ~~(22)~~ "Third Party Payor" is any person or entity that is or may be indirectly liable for the cost of service furnished to a patient. Third party payors include, without limitation, Medicaid, Medicare, ~~and~~ private insurance, Veterans Administration, Children's Special Health Services and Workers' Compensation.

*Statutory Authority G.S. 130A-223.*

#### **.0711 SPECIAL PROVISIONS**

(a) Each home health agency contracting for reimbursement funds must provide, by itself or from other non-federal sources:

- (1) An amount of in-home health care a non-federal contribution in cash or in kind, fairly evaluated, including plant equip-

ment, or in-home services equal to not less than twenty-five dollars (\$25.00) for each seventy-five dollars (\$75.00) of first year Demonstration Program reimbursement funds expended under the contract;

- (2) ~~An amount of in-home health care a non-federal contribution in cash or in kind, fairly evaluated, including plant equipment, or in-home services equal to not less than thirty-five dollars (\$35.00) for each sixty-five dollars (\$65.00) of second year Demonstration Program reimbursement funds expended under the contract; and~~

- (3) ~~An amount of in-home health care a non-federal contribution in cash or in kind, fairly evaluated, including plant equipment, or in-home services equal to not less than forty-five dollars (\$45.00) for each fifty-five dollars (\$55.00) of third year Demonstration Program reimbursement funds expended under the contract.~~

(b) Each home health agency contracting for reimbursement funds shall assure that individuals 65 years of age and over shall comprise not less than 25 percent of the individuals receiving in-home health care services under the contract unless this requirement is waived by the Demonstration Program.

(c) First year Demonstration Program funds in an amount not less than 10.5 percent of the total federal financial assistance shall be made available to support Demonstration Program activities and services for innovative, integrated, and coordinated ways to serve migrant farm workers and AIDS patients within their individual living environments.

*Statutory Authority G.S. 130A-223.*

## CHAPTER 18 - ENVIRONMENTAL HEALTH

### SUBCHAPTER 18A - SANITATION

#### SECTION .1900 - SEWAGE TREATMENT AND DISPOSAL SYSTEMS

##### .1937 PERMITS

(d) Prior to the issuance of an Improvement Permit for a sanitary sewage system to serve a condominium or other multiple-ownership development where the system will be under common or joint control, a ~~properly executed draft~~ agreement (tri-party) among the local health department, developer, and a non-profit, incorporated proposed owners association shall be submitted to the local health department ~~and filed with the local register of deeds~~ for ap-

proval. Prior to the issuance of an Operation Permit for a system requiring a tri-party agreement, the agreement shall be properly executed among the local health department, developer, and a non-profit, incorporated owners association and filed with the local register of deeds. The tri-party agreement shall address ownership, transfer of ownership, maintenance, repairs, operation, and the necessary funds for the continued satisfactory performance of the sanitary sewage system, including collection, treatment, disposal, and other appurtenances.

*Statutory Authority G.S. 130A-335(e) and (f).*

##### .1952 SEPTIC TANK, DOSING TANK AND LIFT STATION DESIGN

(c) The following are minimum standards of design and construction of pump tanks and pump dosing systems:

- (2) The effluent pump shall be capable of handling at least one-half inch solids and designed to meet the discharge rate and total dynamic head requirements of the effluent distribution system. The pump shall be listed by Underwriter's Laboratory or an equivalent third party electrical testing and listing agency, unless the proposed pump model is specified by a registered professional engineer.

*Statutory Authority G.S. 130A-335(e) and (f).*

##### .1954 MINIMUM STANDARDS FOR PRECAST REINFORCED CONCRETE TANKS

(a) The following are minimum standards of design and construction of precast reinforced concrete septic tanks:

- (9) The tank shall be reinforced by using a minimum reinforcing of six-inch by six-inch No. 10 gage welded steel reinforcing wire in the top, bottom ends, and sides of the tank. The reinforcing wire shall be lapped at least six inches. Concrete cover shall be required for all reinforcement. Reinforcement shall be placed to maximize the structural integrity of the tank. The tank shall be able to withstand a uniform live loading of 150 pounds per square foot in addition to all loads to which an underground tank is normally subjected, such as the dead weight of the concrete and soil cover, active soil pressure on tank walls, and the uplifting force of the ground water. Additional reinforcement shall be required when the loads on a concrete tank are exceeded by subjecting it to vehicular traffic or when

the top of the tank is placed deeper than three feet below the finished grade.

*Statutory Authority G.S. 130A-335(e) and (f).*

**.1955 DESIGN CRITERIA FOR  
CONVENTIONAL SEWAGE SYSTEMS**

(e) The pipe or tubing used between the septic tank and the nitrification line shall be a minimum of ~~four-inch~~ three-inch nominal size Schedule 40 polyvinyl chloride (PVC), polyethylene (PE), or acrylonitrile-butadiene-styrene (ABS) or equivalent with a minimum fall of one-eighth inch per foot. ~~Where an effluent distribution device is used between the septic tank and nitrification line, the pipe or tubing shall be a minimum of three-inch nominal size Schedule 40 polyvinyl chloride (PVC), polyethylene (PE), or acrylonitrile-butadiene-styrene (ABS) or equivalent.~~ However, three-inch or greater nonperforated polyethylene (PE) corrugated tubing may be substituted for Schedule 40 pipe between the a distribution device and the nitrification line if the following conditions are met:

- (1) the trench has a minimum bottom width of one foot;
- (2) the trench bed is compacted, smooth, and at a uniform grade;
- (3) the pipe is placed in the middle of the trench with a minimum of three inches of clearance between the pipe and the trench walls;
- (4) washed stone or washed gravel envelope is placed in the trench on both sides of the pipe and up to a point at least two inches above the top of the pipe;
- (5) a minimum of six inches of soil cover is placed and compacted over the stone or gravel envelope; and
- (6) earthen dams consisting of two feet of undisturbed or compacted soil are placed at both ends of the trench separating the trench from the distribution device and the nitrification line.

All joints from the septic tank to the nitrification line shall be watertight.

*Statutory Authority G.S. 130A-335(e) and (f).*

**.1958 NON-GROUND ABSORPTION SEWAGE  
TREATMENT SYSTEMS**

(b) Holding tanks shall not be considered as an acceptable sewage treatment and disposal system ~~and their use is prohibited, except when all the sewage is collected by an approved public management entity and properly disposed of in an approved sanitary sewage system.~~ under the rules of the Commission for Health Services.

An improvement permit shall not be issued for a sewage holding tank.

*Statutory Authority G.S. 130A-335(e) and (f).*

**.1961 MAINTENANCE OF SEWAGE SYSTEMS**

(a) Any person owning or controlling the property upon which a ground absorption sewage treatment and disposal system is installed shall be responsible for the following items regarding the maintenance of the system:

- (1) Ground absorption sewage treatment and disposal systems shall be maintained at all times to prevent seepage or discharge of sewage or effluent to the surface of the ground or to surface waters.
- (2) Ground absorption sewage treatment and disposal systems shall be checked, and the contents of the septic tank removed, periodically to ensure proper operation of the system.

(b) System management in accordance with Tables V(a) and V(b) shall be required for all systems installed or repaired after January 1, 1992. ~~After January 1, 1992, system management in accordance with Tables V(a) and V(b) shall be required for all existing Type V and VI systems. No improvement permit shall be issued for a Type VI(c) system prior to July 1, 1991. After July 1, 1991, no improvement permit shall be issued for Type IV, Type V, or Type VI systems, unless a management entity of the type specified in Table V(b) is specifically authorized, funded, and operational to carry out this management program in the county or service district in which the proposed system is to be located. A contract shall be executed between the system owner and a management entity prior to the issuance of the Operation Permit. A condition of the Operation Permit shall be that a properly executed contract between the system owner and a management entity shall be in effect for as long as the system is in use. Inspections of the system shall be performed by a management entity at the frequency specified in Table V(b). The management entity shall report the results of their inspections to the local health department at the specified reporting frequency. However, where inspections indicate the need for system repairs, the management entity shall notify the local health department within 48 hours. The management entity shall be responsible for assuring routine maintenance procedures in accordance with the conditions of the Operation Permit.~~

(b) System management in accordance with Tables V(a) and V(b) of this Rule shall be required for all systems installed, repaired or in operation after July 1, 1992. This Rule, how-

ever, shall not preclude requirements for system operators imposed in accordance with Article 3 of G.S. 90A.

- (1) After July 1, 1992, no Improvement Permit shall be issued for Type IV, Type V, or Type VI systems, unless a management entity of the type specified in Table V(b) is specifically authorized, funded, and operational to carry out this management program in the service area where the proposed system is to be located.
- (2) A local health department may be a public management entity for systems classified Type IV, V(a) and V(b) only when specifically authorized by resolution of the local board of health.
- (3) A contract shall be executed between the system owner and a management entity prior to the issuance of an Operation Permit for a system required to be maintained by a public or private management entity. The contract shall include the specific requirements for maintenance and operation, responsibilities of the owner and system operator, provisions that the contract shall be in effect for as long as the system is in use, and other requirements for the continued proper performance of the system. It shall also be a condition of the Operation Permit that subsequent

owners of the system execute such a contract.

- (4) Inspections of the system shall be performed by a management entity at the frequency specified in Table V(b). The management entity shall report the results of their inspections to the local health department at the specified reporting frequency. However, where inspections indicate the need for system repairs, the management entity shall notify the local health department within 48 hours in order to obtain an Improvement Permit for the repairs.
- (5) The management entity shall be responsible for assuring routine maintenance procedures in accordance with the conditions of the Operation Permit and the contract.
- (6) Sewage systems with multiple components shall be classified by their highest system type in accordance with Table V to determine local health department and management entity responsibilities.
- (7) Sewage systems not identified in this Rule shall be classified by the Division of Environmental Health after consultation with the appropriate commission governing operators of pollution control facilities.

TABLE V(a)

LOCAL HEALTH DEPARTMENT RESPONSIBILITIES

<u>System Classification</u>	<u>System Description</u>	<u>Permits Required</u>	<u>Minimum System Review Frequency</u>
Type I	a. Privy b. Chemical toilet c. Incinerating toilet d. Other toilet system e. Grease trap	Improvement Permit & Operation Permit	N A
Type II	a. Conventional septic system (single-family or 480 GPD or less) b. Conventional septic system with 750 linear feet of nitrification line or less c. Conventional system with shallow placement	Improvement Permit & Certificate of Completion	N A
Type III	a. <u>Conventional septic system &gt; 480 GPD (excluding single-family residence)</u> b. <u>Septic system with</u>	Improvement Permit & Operation	5 yrs.



# PROPOSED RULES

	single effluent pump <u>or</u> siphon	Permit	
	<del>c. b.</del> <u>Gravity mound Gravity fill system</u>		
	<del>d. e.</del> <u>Dual gravity field system</u>		
	<del>e. d.</del> <u>PPBPS system, gravity dosed</u>		
	<del>f. e.</del> <u>Large diameter pipe system</u>		
	<del>g. f.</del> <u>Other non-conventional trench systems</u>		
Type IV	a. <del>LPP</del> <u>Any system with LPP distribution</u>	Improvement Permit & Operation Permit	3 yrs.
	<del>b. Pressure mound</del>		
	<del>b. e.</del> <u>System with more than 1 pump or siphon</u>		
	<del>d. PPBPS system with pressure distribution</del>		
	<del>e. Other trench systems with pressure distribution</del>		
	<del>f. Open ditch drainage for 2 or more lots</del>		
	<del>g. Sand filter pretreatment systems</del>		
Type V	a. <u>Sand filter pretreatment system</u>	Improvement	<u>1 yr.</u>
	<del>a. Pump drainage</del>	<del>Improvement</del>	<del>2 yrs.</del>
	<del>b. Package treatment plants</del>	<del>Permit &amp; Operation</del>	
	<del>c. Chemical treatment plants</del>	<del>Permit</del>	
	<del>d. Other mechanical, biological, or chemical pretreatment systems</del>		
	<del>b. e.</del> <u>Any &gt; 3,000-GPD septic tank system with a nitrification field designed for &gt; 1500 GPD</u>		
	<del>e.</del> <u>Aerobic Treatment Unit (ATU)</u>		
	<del>d.</del> <u>Other mechanical, biological, or chemical pretreatment plan (&lt; 3000 GPD)</u>		
Type VI	a. Any > 3,000 GPD system with mechanical, biological, or chemical pretreatment system <u>plant</u>	Improvement Permit & Operation Permit	<u>1 yr.</u> <u>2 yrs.</u>
	b. Wastewater reuse/recycle		
	<del>e. Holding tanks</del>		

TABLE V(b)

## MANAGEMENT ENTITY RESPONSIBILITIES

System Classification	Management Entity	Minimum System Inspection Maintenance Frequency	Certified Operator	Reporting Frequency
Type I	Owner	N/A	N/A	N/A
Type II	Owner	N/A	N/A	N/A
Type III	Owner	N/A	N/A	N/A
Type IV	Public Management Entity <u>With a Certified Operator or a</u>	2/yr.	<u>Optional</u>	1/yr.

## PROPOSED RULES

	Private Certified Operator Certified Installer			
Type V (a) & (b)	Public Management Entity With a Certified Operator or a Private Certified Operator (Type V(e) only)	<del>12 yr.</del>  a. <u>2 yr (0-1500 GPD)</u> <u>4 yr (1500-3000 GPD)</u>  <u>12 yr (3000-10000 GPD)</u> <u>1 wk (&gt; 10000 GPD)</u> b. <u>12 yr (3000-10000 GPD)</u> <u>1 wk (&gt; 10000 GPD)</u>	<del>Required</del>	2/yr.
(c) & (d)	Public Management Entity With Certified Operator	c. <u>4 yr</u> d. <u>12 yr</u>		
Type VI	Public Management Entity With a Certified Operator	a. <u>1 wk (3000-10000 GPD)</u> <u>2 wk (10000-25000 GPD)</u>  <u>3 wk (25000-50000 GPD)</u> <u>5 wk (&gt; 75000 GPD)</u> b. <u>12 yr</u> e. <del>12 yr</del>	<del>Required</del>	4 yr

(c) A sewage collection, treatment, and disposal system that creates or has created a public health hazard or nuisance by surfacing of effluent or discharge directly into ground water or surface waters, or that is partially or totally destroyed shall be repaired within 30 days of notification by the state or local health department unless the notification otherwise specifies a repair period in writing. If a system described in the preceding sentence has for any reason been disconnected, the system shall be repaired prior to reuse. The state or local health department shall use its best professional judgement in requiring repairs that will reasonably enable the system to function properly. If, for any reason, a sewage collection, treatment, and disposal system is nonrepairable, the system shall not be used.

(d) When necessary to protect the public health, the state or local health department may require the owner or controller of a malfunctioning system to pump and haul sewage to an approved sanitary sewage system during the time needed to repair the system.

*Statutory Authority G.S. 130A-335, e) and (f).*

### .1962 APPLICABILITY

The provisions of this Section shall not apply to properly functioning sewage collection, treatment, and disposal systems in use or for which a valid permit to install a system has been issued prior to ~~January~~ July 1, 1977. This provision is

applicable only where the sewage flow and sewage characteristics are unchanged.

*Statutory Authority G.S. 130A-335(e).*

## SUBCHAPTER 18C - WATER SUPPLIES

### SECTION .0100 - PROTECTION OF PUBLIC WATER SUPPLIES

#### .0102 DEFINITIONS

(c) In addition to the definitions adopted by reference, the following definitions apply to this Subchapter:

(8) "Fecal coliform" means bacteria consistently found in the intestine of man and other warm blooded animals which are not normally disease producing but serve as indicators of recent fecal contamination. They are members of the Family Enterobacteriaceae, type Genus *Escherichia*, species *coli*.

*Authority G.S. 130A-311 through 130A-327; P.L. 93-523; 40 C.F.R. 141.2.*

## CHAPTER 19 - HEALTH: EPIDEMIOLOGY

### SUBCHAPTER 19B - INJURY CONTROL

### SECTION .0500 - ALCOHOL SCREENING TEST DEVICES

**.0503 APPROVED ALCOHOL SCREENING TEST DEVICES: CALIBRATION**

(a) The following breath alcohol screening test devices are approved as to type and make:

- (1) ALCO-SENSOR (with two-digit display), made by Intoximeters, Inc.
- (2) ALCO-SENSOR III (with three-digit display), made by Intoximeters, Inc.
- (3) BREATH-ALCOHOL TESTER MODEL BT-3, made by RepCo., Ltd.
- (4) ALCOTEC BREATH-TESTER, made by RepCo., Ltd.

(b) Calibration of alcohol screening test devices shall be verified at least once during each seven day period of use by employment of a control sample from an alcoholic breath simulator or a NALCO standard. The device shall be deemed properly calibrated when the result of 0.09 or 0.10 is obtained.

*Statutory Authority G.S. 20-16.3.*

**SUBCHAPTER 19C - OCCUPATIONAL HEALTH**

**SECTION .0600 - ASBESTOS HAZARD MANAGEMENT PROGRAM**

**.0601 GENERAL**

(a) The definitions contained in G.S. 130A-444 and the following definitions shall apply throughout this Section:

- (1) "Management Consultant" means a person who performs administration or oversight services before, during or after asbestos abatement activities.
- (2) "Air Monitor" means a person who monitors and evaluates asbestos abatement activities, performs visual inspections, ~~or~~ takes air samples for abatement clearance activities or ~~who~~ takes ambient air samples in buildings.
- (3) "Program" means the Asbestos Hazard Management ~~Program~~ Branch within the NC Department of Environment, Health, and Natural Resources.
- (4) "Public Area" means as defined in G.S. 130A-444(7). Any area to which access by the general public is usually prohibited, or is usually limited to access by escort only, shall not constitute a "public area".
- (5) "Person" means as defined in 130A-2(7).
- (6) "Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

(b) The Asbestos Hazard Emergency Response Act, P.L. 99-519 and the Environmental Protection Agency rules 40 CFR Part 763 and ac-

companying appendices, are adopted by reference in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 130A-5(3); P.L. 99-519.*

**.0602 ACCREDITATION**

(a) No person shall perform asbestos management activities until that person has been accredited by the Program in the appropriate accreditation category, except as provided for in G.S. 130A-447, (b) and (c).

(b) An applicant for accreditation shall meet the provisions of the "EPA Model Contractor Accreditation Plan" contained in 40 CFR 763 (Subpart E, appendix C) and Rule .0604 of this Section.

(c) In addition to the requirements in (b), an applicant shall meet the following:

- (1) an applicant for initial accreditation shall have successfully completed an approved initial training course for the specific discipline within the 12 months immediately preceding application or, if initial training was completed more than 12 months prior to application, the applicant shall have successfully completed an approved refresher training course for the specific discipline at least every 14 months from the date of completion of initial training to the date of application.
- (2) an inspector shall have:
  - (A) a high school diploma or equivalent; and
  - (B) at least three months asbestos related experience under direct supervision of an accredited inspector, or at least one month of employment as an accredited supervisor, or at least six months employment as an accredited worker, or equivalent experience;
- (3) a management planner shall have a high school diploma or equivalent and shall be an accredited inspector;
- (4) a supervisor shall have:
  - (A) a high school diploma or equivalent; except that this requirement shall not apply to supervisors that were accredited on November 1, 1989; and
  - (B) at least three months asbestos related experience as, or under the direct supervision of, an accredited supervisor or at least three months employment as an asbestos worker, or equivalent experience;
- (5) an abatement designer shall have:
  - (A) a high school diploma or equivalent; and
  - (B) at least three months asbestos related experience as, or under the direct super-

- vision of, an accredited abatement designer or at least three months employment as an accredited supervisor, or equivalent experience;
- (6) a management consultant shall:
- (A) be a professional engineer, registered architect or a certified industrial hygienist or have four years experience as an abatement designer or supervisor; and
- (B) have one year experience in asbestos related work within the past four years and be accredited as a management planner and a designer.
- (7) an air monitor shall:
- (A) ~~until February 1, 1991, be a certified industrial hygienist, professional engineer, or registered architect, or work only under the supervision of a certified industrial hygienist, professional engineer, or registered architect that is accredited as an air monitor. On or after February 1, 1991, an air monitor shall be a certified industrial hygienist, certified in comprehensive practice of industrial hygiene, or work only under the supervision of a certified industrial hygienist that is an accredited air monitor. Except that this requirement shall not apply to accredited air monitors meeting the provisions of Subparagraphs (c)(7)(B)-(E) of this Rule as of February 1, 1991. The supervising certified industrial hygienist, professional engineer, or registered architect air monitor shall coordinate and sign off on all phases of the air monitoring project. The supervising certified industrial hygienist, professional engineer, or registered architect air monitor may be a contract consultant;~~
- (B) Effective February 1, 1992, have successfully completed an approved supervisor training course and shall maintain refresher training pursuant to Subparagraph (c)(1) of this Rule;
- (C) ~~(B)~~ have completed the National Institute for Occupational Safety and Health 582 training course or equivalent;
- (D) ~~(C)~~ have three months asbestos air monitoring related experience or equivalent within 12 months following the most recent prior to applying for accreditation; ~~or reaccreditation;~~ and
- (E) ~~(D)~~ have a high school diploma or equivalent.
- (d) To obtain accreditation, the applicant shall submit, or cause to be submitted, the following information to the Program on application forms provided by the Program:
- (1) full name and social security number of applicant;
  - (2) name, address and telephone number of employer;
  - (3) discipline(s) applied for;
  - (4) date(s) of training course(s) for each discipline;
  - (5) name of course attended;
  - (6) training agency name and address;
  - (7) confirmation of completion of an approved initial or refresher training course from the training agency; the confirmation shall be in the form of an original certificate of completion of the approved training course bearing the training agency's official seal, or an original letter from the training agency confirming completion of the course on training agency letterhead, or an original letter from the training agency listing names of persons who have successfully completed the training course, with the applicant's name included, on the training agency letterhead;
  - (8) when education is a requirement, a copy of the diploma or other written documentation; and
  - (9) when experience is a requirement, work history documenting asbestos related experience, including employer name, address, and phone number; positions held; and dates when the positions were held.
- (e) All accreditations, including accreditations issued prior to October 10, 1988, shall expire at the end of the 12th month following completion of required initial or refresher training. To be reaccredited, an applicant shall have completed the required refresher training course within 14 months after the initial or refresher training course. An applicant for reaccreditation shall also submit information specified in Subparagraphs (d)(1)-(d)(7) of this Rule. If a person fails to obtain reaccreditation within two calendar months after the expiration date of original accreditation, that person may be accredited only by meeting the requirements of Paragraphs (b), (c), and (d) of this Rule.
- ~~(f) Persons applying for reaccreditation as an air monitor shall have obtained at least one month of asbestos related experience within 12 months following the most recent accreditation or reaccreditation.~~
- (f) ~~(g)~~ All accredited persons shall be assigned an accreditation number by the program.
- (g) ~~(h)~~ Upon request, a person accredited by another state shall be accredited by the program if that state's accreditation program is at least as stringent and as comprehensive as the accreditation program established by these rules.

(h) ~~(f)~~ In accordance with G.S. 130A-23, the Program may revoke accreditation or reaccreditation for any violation of G.S. 130A, Article 19 or any of the rules of this Section, or upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue accreditation or reaccreditation. The Program may also revoke accreditation or reaccreditation upon a finding that the accredited person has violated any standard referenced in Rule .0606(e) of this Section. A person whose accreditation is revoked because of fraudulent misrepresentations or because of violations that create a significant public health hazard shall not be authorized to reapply for accreditation before six months after the revocation and must repeat the initial training course and other requirements as shown in Paragraphs ~~(e)(1)-(e)(4)~~ (b), (c), and (d) of this Rule.

Statutory Authority G.S. 130A-5(3); 130A-447; P.L. 99-519.

#### .0603 APPROVAL OF TRAINING COURSES

(a) Pursuant to Rule .0602 of this Section, applicants for accreditation and reaccreditation are required to successfully complete training courses approved by the Program. In order to be approved by the Program, training programs shall meet the following requirements: ~~of 40 CFR 763, Subpart E, Appendix C, and the requirements of this Rule.~~

- (1) Training courses meeting the requirements of 40 CFR 763, Subpart E, Appendix C and approved for a specific training provider by the Environmental Protection Agency or by a state with an Environmental Protection Agency-approved accreditation program shall be deemed approved by the Program unless approval is suspended or revoked in accordance with Paragraph (f) of this Rule; or
- (2) Training courses covered under 40 CFR 763, Subpart E, Appendix C and having no prior Program approval as specified in Subparagraph (a)(1) of this Rule shall meet the requirements of 40 CFR 763, Subpart E, Appendix C, I and III, Paragraphs (b) and (c) of this Rule; or
- (3) Training courses not covered under 40 CFR 763, Subpart E, Appendix C shall meet the requirements of Paragraph (c) of this Rule.

A list of approved training courses shall be available from the Program.

(b) Refresher training courses shall include a review of the following key aspects of the initial training course:

- (1) the refresher training courses for all disciplines shall include a review of health effects of asbestos, respiratory protection, and personal protective equipment;
- (2) the refresher training course for inspector shall include a review of record keeping, writing the inspection report, inspecting for friable and non-friable asbestos-containing material, and assessing the condition of asbestos containing building materials;
- (3) the refresher training course for management planner shall include a review of record keeping, management plan content, hazard assessment, determining an operations and maintenance plan, and selection of control options;
- (4) the refresher training course for abatement project designer shall include a review of designing abatement solutions, budgeting and cost estimation, considerations for work in occupied buildings and writing abatement specifications;
- (5) the refresher training course for supervisor shall include a review of state-of-the-art work practices, air monitoring and supervisory techniques; and
- (6) the refresher training course for abatement worker shall include a review of state-of-the-art work practices, personal hygiene, and additional safety hazards.

~~(e) Training courses approved by the Environmental Protection Agency of any state authorized by the Environmental Protection Agency to approve training courses shall be deemed approved by the Program unless approval is suspended or revoked in accordance with Paragraph (f) of this Rule.~~

~~(d) Applicants for training course approval shall submit to the Program a description of the course content, including the instructor's guide, student handout materials, and a description of the required examination.~~

(c) Training courses shall be evaluated for approval by the Program for course length, curriculum, training methods, instructors' qualifications, technical accuracy of written materials and instruction, examination, and training certificate. Training course providers applying for course approval shall submit the information and documentation specified on an application form provided by the Program.

(d) Training course providers shall perform the following in order to maintain approval:

- (1) Issue a certificate of training to any student who completes the required training and passes the applicable examination. The certificate shall include:

- (A) Name of student;
  - (B) Training course title;
  - (C) Inclusive dates of course and applicable examination;
  - (D) Statement that student passed any examination required;
  - (E) Certificate number;
  - (F) For courses covered under 40 CFR 763, Subpart E, Appendix C, certificate expiration date that is one year after the date course completed and applicable examination passed;
  - (G) Signature of training course administrator or principle instructor; and
  - (H) Name, address, and phone number of the training provider.
- (2) Notify the Program, in writing, of any changes to course length, curriculum, training methods, training manual or materials, instructors, examination, training certificate, training course administrator or contact person.
- (3) Submit to the Program information and documentation for any course approved under Subparagraph (a)(1) of this Rule if requested by the Program.
- (c) Training course sponsors providers shall permit Program representatives to attend, evaluate and monitor any training course, take the course examination and have access to records of training courses without charge or hindrance to the Program for the purpose of evaluating compliance with 40 CFR 763, Subpart E, Appendix C and these Rules. The Program shall perform periodic and unannounced on-site audits of training courses.
- (f) In accordance with G.S. 130A-23, the Program may suspend or revoke approval for a training course for violation of this Rule and shall suspend or revoke approval upon suspension or revocation of approval by the Environmental Protection Agency or by any state authorized by the with an Environmental Protection Agency to approve training courses. Agency-approved accreditation program.

*Statutory Authority G.S. 130A-5(3); 130A-447; P.L. 99-519.*

#### .0604 ASBESTOS MANAGEMENT PLANS

- (a) All Local Education Agencies shall submit Asbestos Management Plans for school buildings to the Program on forms provided by the Program. Asbestos Management Plans shall meet the requirements contained in 40 CFR 763.
- (b) In addition to the requirements in Paragraph (a) of this Rule, the management plan shall comply with the following:

- (1) All Asbestos Containing Building Materials shall be identified, located, classified and assessed; and
  - (2) The Local Education Agency shall notify the Program of asbestos removal projects within ten working days after the removal area has been cleared for occupancy.
- (c) All Local Education Agencies shall submit to the Program Asbestos Hazard Emergency Response Act reinspection reports as required under 40 CFR 763, Subpart E. These reports shall be submitted on forms provided by the Program.

*Statutory Authority G.S. 130A-5(3); 130A-445; P.L. 99-519.*

#### .0605 ASBESTOS CONTAINING MATERIALS REMOVAL PERMITS

- (a) No person shall remove more than 35 cubic feet, 160 square feet or 260 linear feet of friable asbestos containing material, or non-friable asbestos containing material that may become friable during handling, without a permit issued by the Program. Other asbestos abatement activities are exempt from the permit requirements of G.S. 130A-449.

(b) Applications for asbestos containing material removal permits shall be submitted to and received by the Program at least ten working days prior to the scheduled removal date. However, for asbestos removal determined by the Program to require immediate action, the ten day notice shall not be required. The application shall be made on a form provided by the Program, and shall contain the information in Paragraphs (b)(1)-(b)(9) of this Rule. If immediate action is necessary, the applicant shall supply the information required on the application, plus an attachment containing the additional information in Paragraphs (b)(10)-(b)(13) of this Rule.

- (1) Contractor information;
- (2) Project location information;
- (3) Facility description;
- (4) Removal dates;
- (5) Description, location and amount of asbestos material to be removed;
- (6) Permit fee information;
- (7) Disposal methods;
- (8) Notification of other agencies;
- (9) Cause of damage relating to immediate problem;
- (10) Date when damage occurred;
- (11) Agency requesting immediate action;
- (12) Public health affects; and
- (13) Names of accredited personnel involved;

(e) ~~The permit holder shall notify the Program of any change in the removal schedule at least two working days prior to the removal.~~

(c) Revisions for issued asbestos removal permits shall be as follows:

(1) Revisions for renovations:

(A) that will begin after the start date contained in the approved permit, shall be submitted to the Program by written notice prior to the original start date;

(B) that will begin on a date earlier than the start date contained in the approved permit, shall be submitted to the Program by written notice at least 10 working days prior to the beginning of asbestos work.

(2) Revisions to original completion date shall be submitted to the Program at least one working day prior to the revised completion date by written notice.

(3) Revisions other than start and completion dates shall be submitted to the Program within three working days by written notice. In no event, shall a removal covered by these Rules start on a date other than the date contained in the revised permit.

(d) Copies of the following shall be maintained on site during removal activities and be immediately available for review by the Program:

(1) copy of the removal permit issued by the Program;

(2) applicable specifications and contract documents;

(3) ~~disposal information, including any authorization for disposal;~~

(3) ~~(4)~~ identification and accreditation information for all personnel performing removal activities.

(e) All permitted removal activities shall be conducted in accordance with the Toxic Substances Control Act, 15 USC 2601; 29 CFR Parts 1910 and 1926; 40 CFR Parts 61 and 763; Environmental Protection Agency's Guidance for Controlling Asbestos-Containing Materials in Buildings, 560/5-85-024 except paragraphs 6.4.1 Visual Inspection and 6.4.2 Air Testing; Environmental Protection Agency's A Guide to Respiratory Protection for the Asbestos Abatement Industry, 560-OPIS-86-001 except Part II C. Respirator Selection; Environmental Protection Agency's Measuring Airborne Asbestos Following An Abatement Action, 600/4-85-049; American National Standards Institute's Respiratory Protection, Respirator Use, Physical Qualifications for Personnel, Z88.6-1984; American National Standards Institute's Practices for Respiratory Protection, Z88.2-1980; American National Standards Institute's Fundamentals

Governing the Design and Operation of Local Exhaust Systems, Z9.2-1979; 49 CFR Part 173; G.S. Chapters 97 and 130A, which are hereby adopted by reference in accordance with G.S. 150B-14(c).

(f) In accordance with G.S. 130A-23, the Program may suspend or revoke the permit for any violation of G.S. 130A, Article 19 or any of the rules of this Section. The Program may also revoke the permit upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit.

*Statutory Authority G.S. 130A-5(3); 130A-449; P.L. 99-519.*

#### .0606 FEES

(a) The fee required by G.S. 130A-450 shall be submitted with an application for the asbestos containing material removal permit. The amount of the fee is one percent of the contract price or twenty cents (\$0.20) per square or linear foot, whichever is greater. Fees for removal of surfacing materials, ceiling tiles and floor tiles, when permitting, shall be one percent of the contract price or ~~five fifteen~~ cents ~~(\$0.05)~~ (\$0.15) per square foot, whichever is greater. Fees for asbestos removal for demolition purposes shall be a maximum of three hundred dollars (\$300.00). A permit shall not be issued until the required fee is paid. However, when the Program has determined that immediate action is necessary, the fee shall not be required to be submitted with the application, but shall be submitted to and received by the Program within five working days of issuance of the permit.

(b) The fee required by G.S. 130A-448 shall be submitted with an application for accreditation or reaccreditation. The amount of the fee shall be one hundred dollars (\$100.00) for each category, except that the fee for persons applying for accreditation or reaccreditation as workers shall be twenty-five dollars (\$25.00). However, if a person applies for accreditation or reaccreditation in more than one category per calendar year, the amount of the fee shall be one hundred dollars (\$100.00) for accreditation or reaccreditation in the first category and seventy-five dollars (\$75.00) for accreditation or reaccreditation in each remaining category. ~~For accreditation or reaccreditation in multiple categories, the applicant for accreditation or reaccreditation in an additional category shall submit to the Program a copy of the first accreditation or reaccreditation.~~ A person shall not be accredited or reaccredited until the required fee is paid.

Statutory Authority G.S. 130A-5(3); 130A-448; 130A-450; P.L. 99-519.

**.0607 ASBESTOS EXPOSURE STANDARD  
FOR PUBLIC AREAS**

(a) The maximum allowable ambient asbestos level for public areas shall be 0.01 fibers per cubic centimeter of air based on the fiber level obtained during the actual sample time, as analyzed by phase contrast microscopy or; arithmetic mean of less than or equal to 70 structures per millimeter square, or a Z-Test result that is less than or equal to 1.65 as analyzed by transmission electron microscopy.

(b) The sampling and analysis method used to determine the ambient asbestos fiber level in buildings shall be either phase contrast microscopy or transmission electron microscopy.

(c) The sampling and analysis method used to determine the fiber level for clearance after an abatement action shall be either phase contrast microscopy or transmission electron microscopy, except that local education agencies shall meet Asbestos Hazard Emergency Response Act requirements.

(b) Ambient air sampling shall be conducted in public areas outside the work area where permitted asbestos removal activities are being performed.

(c) Clearance air sampling shall be conducted in accordance with Paragraphs (d) and (e) of this Rule for all permitted asbestos removal projects conducted in public areas. Clearance levels for all public areas shall meet the requirements of Paragraph (a) of this Rule.

(d) Phase contrast microscopy or transmission electron microscopy sampling and analysis methods shall be conducted in accordance with 40 CFR Part 763, Subpart E.

(e) Sample analysis for phase contrast microscopy or transmission electron microscopy samples shall be performed by a laboratory meeting the requirements of P.L. 99-519 and 40 CFR 763 and accompanying appendices.

Statutory Authority G.S. 130A-5(3); 130A-446; P.L. 99-519.

**CHAPTER 21 - HEALTH: PERSONAL HEALTH**

**SUBCHAPTER 21A - WOMEN'S PREVENTIVE HEALTH**

**SECTION .0800 - ADOLESCENT PREGNANCY: PREMATURITY AND PREVENTION PROJECT**

**.0817 GRANT PROPOSALS**

(c) Grant proposals shall include the following:

(1) evidence of public notice and a public hearing on the proposal, held by the appropriate board or council as follows:

(A) the board of county commissioners or its designee; or

(B) the city council or its designee, if the area in which the project will operate is solely within the boundaries of a municipality; and

(2) a statement of community support for the proposal, as submitted, from the board or council that conducted the public hearing on the proposal.

Statutory Authority G.S. 130A-124; S.L. 1989, c. 752, s. 136.

**CHAPTER 26 - INFORMATION SERVICES**

**SUBCHAPTER 26A - STATE CENTER FOR HEALTH STATISTICS**

**.0001 CHARGES**

Upon request, the State Center for Health Statistics (SCHS) SCHS will undertake special computer runs for data not in a published form. The SCHS may charge the requestor for the cost of the computer run, including staff and support time.

Statutory Authority G.S. 130A-5(3); 143B-10.

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-12 that the State Registrar intends to amend rule(s) cited as 15A NCAC 19H .0703 - .0704, .0805.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 1:30 p.m. on May 8, 1991 at the Norton Board Room, 6th Floor Cooper Memorial Bldg., 225 N. McDowell Street, Raleigh, N.C.*

*Comment Procedures: Any person requiring information concerning the proposed rules should contact John P. Barkley, DEHNR, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-7247. Written comments on these rules may be sent to Mr. Barkley at the above address or submitted at the public hearing. If you desire to speak at the public hearing, notify Mr. Barkley at least 3 days prior to the public hearing.*



CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19H - VITAL RECORDS

SECTION .0700 - FEES AND REFUNDS

.0703 FEES FOR CORRECTIONS AND AMENDMENTS

The fee for correcting a birth or death certificate shall be ~~five dollars (\$5.00)~~ seven dollars and fifty cents (\$7.50) per request. ~~with the following exceptions:~~

(1) No fee shall be charged for amending a cause of death on a death certificate.

(2) ~~A fee of seven dollars (\$7.00) shall be charged for correcting a birth certificate when the original certificate was intentionally falsified.~~

Statutory Authority G.S. 130A-92(7); 130A-118.

.0704 FEES FOR PREPARING NEW CERTIFICATE: ADOPTION AND LEGITIMATION

A fee of ~~seven dollars (\$7.00)~~ seven dollars and fifty cents (\$7.50) shall be charged for preparing a new birth certificate for adoptions and legitimations.

Statutory Authority G.S. 48-29; 130A-92(7); 130A-118.

SECTION .0800 - CHANGE OF NAMES

.0805 JUDICIAL DETERMINATION OF PATERNITY

For cases in which a court determines the paternity of an illegitimate child, the father's name shall be added and a copy of the amended certificate shall be forwarded to the register of deeds in the county where the birth occurred. In cases where the mother is married and the court determines the husband is not the father, the husband's name will be lined out, and if also determined by the court, the natural father's name will be added.

Statutory Authority G.S. 130A-92(7).

TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

*Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Education intends to amend rule(s) cited as 16 NCAC 6D .0103.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on May 3, 1991 at the Third Floor Conference Room, Education Building, 116 West Edenton Street, Raleigh, North Carolina.*

*Comment Procedures: Any interested person may present views and comments either in writing prior to or at the hearing or orally at the hearing.*

CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 6D - INSTRUCTION

SECTION .0100 - CURRICULUM

.0103 GRADUATION REQUIREMENTS

(a) In order to graduate and receive a high school diploma, public school students must attain passing scores on competency tests adopted by the SBE and administered by the LEA. Students who satisfy all state and local graduation requirements but who fail the competency tests will receive a certificate and transcript and may be allowed by the LEA to participate in graduation exercises.

(1) LEAs score the competency tests separately according to passing scores or criterion levels approved by the SBE.

(2) LEAs may change the form or content of the competency tests where necessary to allow special education students to participate, but these students must achieve a level of performance on each test equal to the passing scores or criteria levels.

(3) Special education students may apply in writing to be exempted from taking the competency tests. Before it approves the request, the LEA must assure that the parents, or the child if aged 18 or older, understand that each student must pass the competency tests to receive a high school diploma.

(4) Any student who has failed to pass the competency tests by the end of the last school month of the year in which the student's class graduates may receive additional remedial instruction and continue to take the competency tests during regularly scheduled testing until the student reaches maximum school age.

(b) In addition to the requirements of Paragraph (a), students must successfully complete 20 course units in grades 9-12.

(1) Effective with the class entering ninth grade for the 1992-93 school year, the ~~The~~ 20 course units must include:

(A) four units in English;

- (B) ~~two~~ three units in mathematics, one of which must be Algebra I;
  - (C) ~~two~~ three units in social studies, one of which must be in government and economics, ~~and~~ one in United States history and one in world studies;
  - (D) ~~two~~ three units in science, one of which must be a ~~life science or~~ biology and one a physical science;
  - (E) one unit in physical education and health; and
  - (F) ~~nine~~ six units designated by the LEA, which may be undesignated electives or courses designated from the standard course of study.
- (2) LEAs may count successful completion of course work in the ninth grade at a school system which does not award course units in the ninth grade toward the requirements of this Rule.
  - (3) LEAs may count successful completion of course work in grades 9-12 at a summer school session toward the requirements of this Rule.
  - (4) LEAs may count successful completion of course work in grades 9-12 at an off-campus institution toward the requirements of this Rule. No high school may approve enrollment in post-secondary institutions during the regular school year in excess of five percent of its enrollment in grades 10-12 except as allowed by the SBE. 23 NCAC 2C .0301 governs enrollment in community college institutions.
  - (5) Individual students may apply for exemption from the Algebra I requirement upon recommendation of a multidisciplinary school-based committee and the approval of the local superintendent. Local superintendents must report annually to the local board of education on the number of exemptions approved.

*Authority G.S. 115C-12(9)c.; 115C-81(a); 115C-180; N.C. Constitution, Article IX, Sec. 5.*

## TITLE 21 - OCCUPATIONAL LICENSING BOARDS

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Architecture intends to amend rule(s) cited as 21 NCAC 2 .0211, .0601.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 10:00 a.m. on May 15, 1991 at the North Carolina Board of Architecture, 501 N. Blount Street, Raleigh, NC 27605.*

*Comment Procedures: Any person interested in these rules may present oral comments relevant to the action proposed at the public rule-making hearing or deliver them to the Board office not later than Friday, May 3, 1991, by 4:00 p.m. Anyone planning to attend the hearing should notify the Board office by Friday, May 3, 1991 by 4:00 whether they will speak on the proposals and whether they wish to speak in favor of or against the proposals. Speakers will be limited to 15 minutes.*

## CHAPTER 2 - BOARD OF ARCHITECTURE

### SECTION .0200 - PRACTICE OF ARCHITECTURE

#### .0211 UNAUTHORIZED PRACTICE

(a) Requirement for Architectural License. No individual, firm or corporation shall practice or offer to practice architecture in the state without having first secured a license or certificate from the Board authorizing such practice. Architectural practice without a license is prohibited and made a misdemeanor punishable, upon conviction, by fine or imprisonment or both by G.S. 83-16. The exceptions to the requirements for an architectural license are set out in G.S. 83A-13.

(b) The Board has interpreted some of the exemptions found in G.S. 83A-13 as follows: The Board has an obligation to ensure, insofar as it is able, that public safety regulations are met. Therefore, the following interpretations of certain of the exemptions found in G.S. 83A-13 are set forth.

- (1) G.S. 83A-13(c)(1) applies only to family residences. Any other types of buildings may not be considered exempt under this statute. Any family residence, exceeding eight units, requires the seal of an architect. Any project containing more than one building of eight family units or less is a project that requires the seal of an architect. Grade level exit is interpreted as an exit which provides ingress and egress on a level which exits on grade. Each unit must exit on grade level in addition to any building code requirements for exits.
- (2) G.S. 83A-13(c)(2) means that, to be exempt, a farm building used by a farmer must not be of such a size and scope as

to involve public safety. The interpretation of "public safety" must be construed by the code official on a case-by-case basis.

- (3) In G.S. 83A-13(c)(3), the ninety thousand dollar (\$90,000.00) value is the probable construction cost and does not include the value of the real estate. Any building costing less than ninety thousand dollars (\$90,000.00) is exempt even if it exceeds in gross floor area 2,500 square feet. In G.S. 83A-13(c)(3),(4), institutional or commercial means any structure other than residential or farm as described in G.S. 83-13(c)(1),(2). In G.S. 83A-13(c)(3), the ninety thousand dollars (\$90,000) value is determined by the tax value of the existing building or the probable construction cost of a new building, exclusive of the value of the real estate. Any building whose value is less than ninety thousand dollars (\$90,000) is exempt even if the square footage exceeds 2,500 square feet in gross floor area. The burden of establishing such exemption shall be on the party claiming the exemption.
- (4) In G.S. 83A-13(c)(4), 2,500 square feet is based upon "heated space". If an institutional or commercial building exceeds 2,500 square feet but has a value of less than ninety thousand dollars (\$90,000.00) it is exempt from the requirements of an architectural license. In G.S. 83A-13(c)(4), 2,500 square feet is based upon gross floor space, both heated and unheated. Any building which exceeds 2,500 square feet in gross area but is valued less than ninety thousand dollars (\$90,000) is exempt.
- (5) G.S. 83A-13(c)(5) means that requires the seal of an architect will be required if the alteration, remodeling or renovation alters or affects the structural system of the building. The structure of the building may pertain to the trusses, beam frames, columns, or other structural components. Plans should be reviewed by code officials to determine that a renovation does not affect the structural system of the building. Something as minor as the placement of a new opening for a door or a window can affect the structure of the building and its safety. Structural systems mean, when required, life safety systems, including, without limitation, strength, fire protection of structural components, floor systems, wall systems, ceiling systems,

roof systems, egress corridors and stairs, fire stopping, sprinkler systems, etc., prior to being concealed by finishes; mechanical systems, smoke evacuation systems, pressurization systems, potable water systems, air and gas systems, electrical power systems, smoke detection systems, fire alarm systems, emergency lighting systems, emergency power systems, elevator systems. Most alterations which are not merely cosmetic or decorative affect the structural system and require the seal of an architect. Provided, however, that an alteration, remodeling or renovation to a building which is exempt under Subparagraphs (b)(3) or (4) of this Rule may be exempt even if the structural system is affected if the resulting building would not exceed 2,500 square feet or be valued less than ninety thousand dollars (\$90,000).

- (A) An addition to an existing building is any extension or increase in the floor area or height of a building. All additions are presumed to affect the structural system of the building and require an architect's seal. Provided, however, that if the existing building and proposed addition together do not exceed either ninety thousand dollars (\$90,000) in value or 2,500 square feet gross floor space, the building is exempt.
- (B) The obligation of submitting sealed drawings for a project cannot be evaded by use of change orders after the building permit for the project is issued that result in an increase in the value or square footage if the completed project exceeds the limits of the exemptions in this Rule.
- (C) Any change in an unfinished project for which there is not yet a certificate of occupancy that results in disqualification for exemption must be revealed to the appropriate inspection authority and necessitates an architectural seal of the project's plans as changed.
  - (i) Value must be the value of the completed project. Those who fail to obtain a seal on plans for a project which, when completed, has a value in excess of ninety thousand dollars (\$90,000) and square footage of more than 2,500 do so at their own risk.
  - (ii) A final certificate of occupancy must not be granted for a completed project that is no longer exempt, until the requirement for a seal is satisfied.
- (6) G.S. 83A-13(c)(6) excludes shop drawings, which are those drawings prepared in-

house by subcontractors and other specialists under the nonsupervisory control of the architect.

- (7) G.S. 83A-13(d) applies only to individuals. Corporations are not legally defined as individuals; therefore, a corporation cannot prepare plans for non-exempt buildings without the seal of a licensed architect, even when the buildings are intended solely for the use of that corporation. For plans prepared by an individual to be exempt:

- (A) the individual claiming the exemption must be the record owner of the land upon which the building is to be constructed;
- (B) the individual who is the record owner of the land must personally prepare the plans and this individual cannot claim authorship of plans actually prepared for him by another;
- (C) the individual owner must sign the plans and state his current address on the plans; and
- (D) the individual who owns the land and designed the plans must maintain a possessory interest in the premises after construction. This possessory interest may be actual occupancy by the owner or the possessory interest of a landlord. However, if an individual intends to build a project under this exemption for the purpose of immediately transferring legal title of the project to someone else, this is not a "building for himself." The Board determines an individual's intent on the basis of all relevant facts and not just on the verbal statements of the individual.

- (7) G.S. 83A-13(d) exempts only an individual preparing plans or data for buildings for himself and not buildings which otherwise, by statute or board rule, require the seal of an architect.

- (A) The practice of architecture as defined in G.S. 83A-1 and as used in these Rules, includes the preparation of plans, specifications and related services in connection with the design, construction, and alteration of buildings.

- (B) An individual who makes plans and data for buildings for himself shall not be subject to criminal charges under G.S. 83A-16 nor injunctions under G.S. 83A-17. However nothing in this Rule authorizes an unlicensed individual to prepare the plans and specifications required to obtain a building permit for a non-exempt building.

- (8) G.S. 83A-13(e) requires the designer of a non-exempt project to sign all sheets and disclose his address. If the design is prepared by a corporation, then the corporate officer must disclose his relationship to the corporation in addition to signing the sheets and disclosing the street address. An architect who prepares a design for an exempt project must seal that design, even though an architect's seal is not required for the project plans.

Statutory Authority G.S. 83A-6; 83A-12; 83A-13; 83A-17; 150B-9.

## SECTION .0600 - ADMINISTRATIVE HEARINGS: PROCEDURES

### .0601 PROFESSIONAL STANDARDS COMMITTEE

- (a) Upon receipt of a charge alleging misconduct against a licensee or registrant of the Board, the executive director shall inform the accused party of the nature of the charges as filed with the Board. The Professional Standards Committee ("Committee") shall be appointed by the President of the Board. Complaints regarding violations of the law or board rules shall be referred to the Committee.

- (b) The accused party may elect to respond to the charges by filing a written answer with the Board within 15 days of the receipt of the notification of charges. The Committee shall determine whether a complaint warrants further investigation or, if proven, constitutes probable cause and justifies contested case proceedings.

- (c) The charges, as filed with the Board and any answer made thereto, shall be referred to the Committee on Investigations (hereinafter referred to as "Committee"). The committee shall consist of two members of the Board, one of whom shall serve as chairman. If probable cause is found by the Committee, the staff and board counsel shall serve a Notice of Hearing for a contested case proceeding. However, a Consent Agreement resolving the complaint may be negotiated and recommended to the Board by the Committee, either before or after service of the Notice of Hearing.

- (d) The committee shall investigate the complaint and as part of the investigation may:

- (1) Assign the complaint to the Board's investigator who shall submit a written report to the committee.
- (2) Invite the complaining party and the accused party before the committee to receive their oral statements, but neither party shall be compelled to attend.

(3) Conduct any other type of investigation as is deemed appropriate by the committee.

(d) If probable cause is not found, the Committee may dismiss such a matter with or without prejudice. Third party complainants shall be provided a written notice of said dismissal.

(e) Upon the completion of the investigation, the committee shall determine whether or not there is probable cause to believe that the accused party has violated any standard of misconduct which would justify a disciplinary hearing based upon the grounds as specified in Chapter 83A of the North Carolina General Statutes or this Chapter.

(f) If probable cause is found, the committee shall direct the legal counsel for the Board to file a Notice of Hearing.

(g) If probable cause is found, but it is determined that a disciplinary hearing is not warranted, the committee may issue a reprimand to the accused party. A statement of such reprimand shall be mailed to the accused party. Within 15 days after receipt of the reprimand the accused party may refuse the reprimand and request that a Notice of Hearing be issued pursuant to Chapter 150B of the North Carolina General Statutes and this Chapter. Such refusal and request shall be addressed to the committee and filed with the executive director for the Board. The legal counsel for the Board shall thereafter prepare and file a Notice of Hearing. If the letter of reprimand is accepted, a record of the reprimand shall be maintained in the office of the Board.

(h) If no probable cause is found, the committee shall dismiss the charges as unfounded or trivial and prepare a statement of the reasons therefore which shall be mailed to the accused party and the complaining party.

(i) If no probable cause is found, but it is determined by the committee that the conduct of the accused party is not in accord with accepted professional practice or may be the subject of discipline if continued or repeated, the committee may issue a letter of caution to the accused party stating that the conduct, while not the basis for a disciplinary hearing, is not professionally acceptable or may be the basis for a disciplinary hearing if repeated. A record of such letter of caution shall be maintained in the office of the Board.

(j) A Board member who has served on the committee shall not participate and is deemed disqualified to act as a presiding officer or member of the Board assigned to render a decision in any administrative disciplinary proceeding brought pursuant to a Notice of Hearing for

which that member has sat in an investigative capacity as a member or chairman of the committee.

Statutory Authority G.S. 83A-6; 83A-14; 83A-15; 150B-41.

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Physical Therapy Examiners intends to amend rule(s) cited as 21 NCAC 48E .0110; 48F .0002; and 48G .0203.*

*The proposed effective date of this action is August 1, 1991.*

*The public hearing will be conducted at 2:00 p.m. on May 3, 1991 at Satsky & Silverstein, 900 Ridgefield Drive, Suite 250, Raleigh, NC 27609.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of the hearing will be open for receipt of written comments from April 3, 1991, to 5:00 PM on May 2, 1991. Such written comments must be delivered or mailed to Constance Peake, N. C. Board of Physical Therapy Examiners, 2426 Tryon Road, Durham, NC 27705.*

## CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS

### SUBCHAPTER 48E - APPLICATION FOR LICENSURE

#### SECTION .0100 - REQUIREMENTS

##### .0110 FOREIGN-TRAINED PHYSICAL THERAPISTS

(b) Supporting Documents. In addition to the other requirements of this Section and G.S. 90-270.30, each foreign-trained applicant must submit the following:

- (1) If the applicant has been graduated from a physical therapy educational program, a certification of physical therapy education is to be submitted directly to the Board.
- (2) If the applicant does not meet the requirements of (b)(1) of this Rule, the Board will examine the applicant's educational background to determine if the general college and professional instruction is substantially equivalent to that of a United States physical therapy educa-

tion program. At a minimum, 120 semester hours of college education is required, which includes a minimum of 57 semester hours of professional curriculum, including basic health sciences, clinical sciences and clinical education. It is the responsibility of the applicant to make arrangements with a credentialing service acceptable to the Board to have the credentials evaluated. The Board will make its own review of applicant's educational program and is not bound by the findings of the credentialing service.

- (3) Proof acceptable to the Board that a minimum score of 230 has been obtained on the TSE (Test of Spoken English) or the SPEAK (Speaking Proficiency English Assessment Kit) examination or that English is the applicant's native language.

*Statutory Authority G.S. 90-270.26; 90-270.29; 90-270.30; 90-270.31.*

#### SUBCHAPTER 48F - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF LICENSEES

##### .0002 FEES

(a) The following fees are charged by the Board:

- (1) application for physical therapist licensure:
  - (A) by endorsement or examination taken in another state, ~~seventy-five~~ one hundred dollars ~~(\$75.00); (\$100.00);~~
  - (B) by examination, ~~sixty-five~~ ninety dollars ~~(\$65.00) (\$90.00)~~ plus cost of examination;
  - (C) by revival of lapsed license pursuant to 21 NCAC 48G .0203(b)(1), ~~sixty-five~~ ninety dollars ~~(\$65.00) (\$90.00)~~ plus cost of examination;
  - (D) by revival of lapsed license pursuant to 21 NCAC 48G .0203(b)(2), ~~sixty-five~~ ninety dollars ~~(\$65.00); (\$90.00);~~
- (2) application for physical therapist assistant licensure:
  - (A) by endorsement or examination taken in another state, ~~sixty-five~~ eighty-five dollars ~~(\$65.00); (\$85.00);~~
  - (B) by examination, ~~fifty~~ seventy-five dollars ~~(\$50.00) (\$75.00)~~ plus cost of examination;
  - (C) by revival of lapsed license pursuant to 21 NCAC 48G .0203(b)(1), ~~fifty~~ seventy-five dollars ~~(\$50.00) (\$75.00)~~ plus cost of examination;

- (D) by revival of lapsed license pursuant to 21 NCAC 48G .0203(b)(2), ~~fifty~~ seventy-five dollars ~~(\$50.00); (\$75.00);~~
- (3) renewal for all persons, ~~twenty-five~~ thirty dollars ~~(\$25.00); (\$30.00);~~
- (6) transfer of licensure information fee, including either the examination scores or licensure verification or both, ~~eight~~ fifteen dollars ~~(\$8.00); (\$15.00);~~
- (8) certificate replacement or duplicate, ~~ten~~ fifteen dollars ~~(\$10.00); (\$15.00);~~
- (12) processing fee for returned checks, ~~ten~~ fifteen dollars ~~(\$10.00); (\$15.00).~~

*Statutory Authority G.S. 25-3-512; 90-270.33.*

#### SUBCHAPTER 48G - RETENTION OF LICENSE

##### SECTION .0200 - LAPSED LICENSES

##### .0203 REVIVAL OF LAPSED LICENSE

The following methods may be used to revive a license:

- (1) A license that has lapsed less than five years may be revived by payment of the revival of lapsed license fee and the current year's renewal fee and by completion of the revival form.
- (2) A license that has lapsed more than five years may be revived by payment of the application fee, completion of the application forms, and:
  - (a) passing the "PT exam" (if trained as a physical therapist) or the "PTA exam" (if trained as a physical therapist assistant);
  - (b) satisfactorily ~~completing~~ compiling at least 500 hours of clinical work within a the period of ~~time not to exceed six months~~ one year in the following manner: between 50 and 200 class hours of course work (ie, refresher courses, continuing education, college courses) approved by the Board and the remaining hours while working as an aide under the supervision of a licensed physical therapist, providing the Board authorizes the training and the supervising physical therapist accounts for the 500 clinical hours; or
  - (c) endorsement of a current license in another state as provided by Subchapter 48B Rule .0002 of this Chapter.

*Statutory Authority G.S. 90-270.26; 90-270.32; 90-270.33.*

*The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.*

*Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Rules filed with changes are noted with **\*\* Amended, \*\* Adopted**. Please contact this office if you have any questions.*

*Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.*

*Upon request from the adopting agency, the text of rules will be published in this section.*

*Punctuation, typographical and technical changes to rules are incorporated into the **List of Rules Codified** and are noted as **\* Correction**. These changes do not change the effective date of the rule.*

**TITLE 5  
DEPARTMENT OF CORRECTION**

**CHAPTER 2  
DIVISION OF PRISONS**

**SUBCHAPTER 2D - PUBLIC COMMUNICATIONS**

**SECTION .0800 - INMATE ACCESS TO TELEPHONES**

**.0801 GENERAL**

The maintenance of family and social relationships as well as pre-release planning activities are integral parts of the overall rehabilitation process that can be strengthened through communication by telephone. In consideration of this, the Division of Prisons will establish inmate access to telephone privileges within all correctional facilities. Inmate access to telephones will vary by facility security level and inmate custody classification. In order to maintain security and ensure the safety of the institution staff and inmate population, inmate access to telephones shall be managed carefully and may be suspended if necessary.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

**.0802 RESPONSIBILITY**

(a) The Director of the Division of Prisons shall designate a staff coordinator to assist in telephone program management requirements. Coordination of telephone requirements with Department of Correction Purchasing, Division of Prisons Budget and Legal Sections, and Division operations are essential requirements.

(b) The facility superintendent is responsible for developing specific telephone procedures that comply with the minimum standards established by this policy and procedures. The Superintendent shall designate a telephone program coordinator who is responsible for the management of the facility inmate telephone program.

(c) Program Case Management staff will provide assistance in the management of inmate access to telephones.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

#### **.0803 PROCEDURES**

(a) Availability of Telephones:

- (1) Each correctional facility will establish telephones or telephone banks in sufficient numbers so as to provide appropriate access to telephones by inmates for outgoing calls.
- (2) Telephones are to be wall-mounted and collect only except at minimum custody facilities who are authorized to have telephone booths or modules with coin operated telephones for local calls. Wall mounted is the preferred method of installation.
- (3) Inmate telephones should have a master switch that enables correctional staff to render the telephones inoperable during periods of emergency or other appropriate times.
- (4) The establishment of an appropriate number of telephones or telephone banks is authorized as a legitimate inmate welfare expenditure subject to the Division approval process.

(b) Inmate Access:

(1) Minimum Security Facilities:

- (A) General population minimum custody inmates at minimum security facilities should have open access to telephones as operational considerations permit. Insofar as possible, correctional staff should routinely supervise inmate use of these telephones.
- (B) A 10-minute time limit per inmate call should be established by facility rules.
- (C) Minimum custody inmates may utilize the telephones for maintaining family ties, contacting prospective employers or, communicating with friends or relatives as a part of pre-release planning activities or other legitimate purposes that serve to better prepare the inmate for transition to the community.

(2) Medium Close Security Facilities:

- (A) General population inmates assigned to a medium or close security facility will be provided scheduled access to telephones if requested by the inmate.
- (B) Inmate use of telephones will be by collect call only.
- (C) For each telephone call, the inmate's name, name of the person to be called, and date and time of call, must be documented by supervising correctional staff.
- (D) Medium custody inmates will be permitted two telephone calls per calendar month.
- (E) Close custody inmates will be permitted one telephone call per calendar month.
- (F) All calls are restricted to a 10-minute time limit.

(3) Special Populations:

- (A) Protective Custody - As long as security and safety considerations permit, eligible inmates in protective custody may be permitted telephone privileges consistent with general population medium and close custody inmates.
- (B) Death Row, Maximum Custody, Administrative Segregation, Disciplinary Segregation, Safe-keepers - Inmates in these classification categories are not eligible for participation in the telephone program. Emergency telephone calls or the returning of attorney calls may be permitted at the discretion of the facility superintendent.
- (C) Mental Health In-patients - Mental Health In-patient inmates generally should be provided telephone access consistent with facility security classification and inmate custody level. The inmate Mental Health Treatment Team generally will manage inmate telephone access.
- (D) Other Special Populations - At the discretion of the facility superintendent, other special populations may be involved in planned telephone privileges or access may exceed the minimum standards established by this policy, as a program incentive or treatment strategy.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

#### **.0804 OTHER PROGRAM REQUIREMENTS**

(a) Inmate participation in the telephone program may be suspended through the disciplinary process as a form of punishment. The facility superintendent is authorized to terminate telephone privileges for specific abuse of telephone regulations or to maintain security of the facility and ensure the safety of staff and other inmates. The facility superintendent must document circumstances and rationale for the termination of inmate telephone privileges.



(b) Emergency calls and calls to attorneys may be approved by the facility superintendent or his designee. Calls to an attorney require documentation that identifies the inmate placing the call, the attorney being called, and the date and time of the call. Calls to inmates by attorneys require prior approval by the Department of Correction's Legal Section.

(c) Inmates are not authorized to receive incoming calls on Division established collect call only telephones.

(d) Inmates shall not use the telephone for the purpose of harassing or threatening any employee of any section of the Department of Correction or Parole Commission or the public.

(e) During emergency or unique circumstances, the facility superintendent or his designee is authorized to allow inmates to use the Division of Prisons business telephones. When this discretion is exercised, the use of a Division of Prisons business telephone by the inmate must be documented for auditing purposes.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

## **SUBCHAPTER 2F - CUSTODY AND SECURITY**

### **SECTION .2500 - SMOKING - NO SMOKING**

#### **.2501 PURPOSE**

To reduce the health and safety risks that may be associated with the effects of smoke, the Division of Prisons is establishing smoking no smoking areas within its facilities. For this policy, smoking is defined as the use or carrying of any lit tobacco product.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

#### **.2502 PROCEDURE**

(a) Responsibility:

- (1) The Correctional Center Superintendent and/or Area Administrator or Institution Head, pursuant to this policy, should establish smoking/no smoking areas within the facility.
- (2) The Superintendent or Institution Head should incorporate the smoking/no smoking designations in the facility's Standard Operating Procedures.

(b) Designation of No Smoking Areas. Smoking should be prohibited in the following locations:

- (1) Hazardous Areas: These areas include any location which has or may have flammable liquids, gases or vapors, as well as any area where there is a collection of readily combustible materials. Any questions about such designation should be referred to the Division's Safety Officer.
- (2) Elevators.
- (3) Health Care Facilities: These areas include clinical treatment areas, i.e. operating rooms, examining rooms, nursing stations, x-ray suites. Smoking in other areas of health care facilities is restricted to private offices and other non-clinical areas such as designated by the Health Treatment Administrator or Nursing Supervisor.
- (4) Food Preparation and Serving Areas: These areas include sections of the kitchen where and when food is being prepared and/or served.
- (5) Vehicles: This prohibition applies when inmates are being transported and when the vehicle is being fueled and/or services.

(c) Designation of Restricted Smoking Areas:

- (1) Restrictions may include designated smoking and no smoking areas in each specific location within the facility. Prior to designating smoking/no smoking areas, the Superintendent or Institution Head should review the physical layout of the facility and the existence of ventilation in a particular location within the facility.
- (2) The designation of restricted smoking areas should be established in the following locations, except as authorized by the Superintendent or Institution Head for a designated use and/or time:
  - (A) Dining facilities;
  - (B) Classrooms;
  - (C) Libraries;

- (D) Dormitories;
  - (E) Single Cell Buildings;
  - (F) Gyms;
  - (G) Recreation Buildings;
  - (H) Auditoriums;
  - (I) Chapels.
- (3) Smoking restrictions in prison enterprise operations should be determined by safety issues, the nature of the specific operation, and the physical environment of the operation.
- (4) The Superintendent or Institution Head should consider establishing smoking no smoking areas in any other location within the facility not previously specified.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

#### **.2503 NOTICE**

- (a) No Smoking Areas. "No Smoking" signs should be placed in areas where smoking is prohibited or restricted.
- (b) Smoking Areas. "Smoking" signs should be placed in areas where smoking is permitted. Areas where smoking is permitted should have an adequate number of no-combustible ashtrays.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

#### **.2504 ENFORCEMENT**

Inmates are subject to disciplinary action for smoking in a properly designated "no smoking" area. It is a misdemeanor to sell or give away cigarettes or tobacco to any minor under the age of 17 years.

*History Note: Statutory Authority G.S. 148-11;  
Eff. April 1, 1991.*

## ARRC OBJECTIONS

---

*The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).*

### ECONOMIC AND COMMUNITY DEVELOPMENT

#### Community Assistance

<i>4 NCAC 19R .0103 - Waivers</i>	<i>ARRC Objection 2/25/91</i>
<i>4 NCAC 19R .0303 - Distribution of Funds</i>	<i>ARRC Objection 2/25/91</i>
<i>4 NCAC 19R .0304 - Reallocation</i>	<i>ARRC Objection 2/25/91</i>
<i>4 NCAC 19R .0602 - Reporting</i>	<i>ARRC Objection 2/25/91</i>

#### Energy

<i>4 NCAC 12C .0005 - Forms</i>	<i>ARRC Objection 2/25/91</i>
<i>4 NCAC 12C .0006 - Scope and Purpose of State Set-Aside</i>	<i>ARRC Objection 2/25/91</i>

#### Hazardous Waste Management Commission

<i>4 NCAC 18 .0309 - Final Site</i>	<i>ARRC Objection 1/18/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 2/25/91</i>

### ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

#### Adult Health

<i>15A NCAC 16A .0804 - Financial Eligibility</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>
<i>15A NCAC 16A .0806 - Billing the HIV Health Services Program</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>

#### Coastal Management

<i>15A NCAC 7J .0409 - Civil Penalties</i>	<i>ARRC Objection 1/18/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 2/25/91</i>
<i>15A NCAC 7J .1109 - Permit Fee</i>	<i>ARRC Objection 1/18/91</i>
<i>Agency Withdrew Rule</i>	<i>2/25/91</i>

#### Environmental Health

<i>15A NCAC 18C .0102 - Definitions</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>
<i>15A NCAC 18C .1532 - Variances and Exemptions</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>
<i>15A NCAC 18C .1534 - Max Contaminant Levels for Coliform Bacteria</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>
<i>15A NCAC 18C .2001 - General Requirements</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>

---

## ARRC OBJECTIONS

---

<i>15A NCAC 18C .2002 - Disinfection</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>
<i>15A NCAC 18C .2003 - Filtration</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>
<i>15A NCAC 18C .2004 - Analytical and Monitoring Requirements</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>
<i>15A NCAC 18C .2005 - Criteria for Avoiding Filtration</i>	<i>ARRC Objection 10/18/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/14/90</i>

### Solid Waste Management

<i>15A NCAC 13A .0016 - Special Purpose Com Hazardous Waste Facility</i>	<i>ARRC Objection 2/25/91</i>
<i>15A NCAC 13A .0017 - Fee Schedules</i>	<i>ARRC Objection 2/25/91</i>

### Wildlife Resources Commission

<i>15A NCAC 10H .0302 - Minimum Standards</i>	<i>ARRC Objection 9/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 10/18/90</i>
<i>15A NCAC 10H .0807 - Classes of Permits</i>	<i>ARRC Objection 2/25/91</i>

## HUMAN RESOURCES

### Facility Services

<i>10 NCAC 31F .0303 - Insurance Required</i>	<i>ARRC Objection 11/14/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 12/20/90</i>

### Individual and Family Support

<i>10 NCAC 42B .1201 - Personnel Requirements</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>
<i>10 NCAC 42C .2001 - Qualifications of Administrator</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>
<i>10 NCAC 42C .2002 - Qualifications of Supervisor-in-Charge</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>
<i>10 NCAC 42C .2006 - Qualifications of Activities Coordinator</i>	<i>ARRC Objection 1/18/91</i>
<i>No Response from Agency</i>	<i>2/25/91</i>
<i>10 NCAC 42C .3301 - Existing Building</i>	<i>ARRC Objection 11/14/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 12/20/90</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator</i>	<i>ARRC Objection 11/14/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 12/20/90</i>

## INSURANCE

### Life: Accident and Health Division

<i>11 NCAC 12 .0904 - Requirements for Utilization Review</i>	<i>ARRC Objection 12/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 1/18/91</i>

## LICENSING BOARDS AND COMMISSIONS

### CPA Examiners

<i>21 NCAC 8M .0306 - Due Professional Care</i>	<i>ARRC Objection 2/25/91</i>
---	-------------------------------

## ARRC OBJECTIONS

---

### Cosmetic Art Examiners

21 NCAC 14A .0101 - Definitions	ARRC Objection 2/25/91
21 NCAC 14G .0003 - Space Requirements	ARRC Objection 2/25/91
21 NCAC 14G .0007 - Equipment and Teachers	ARRC Objection 2/25/91
21 NCAC 14I .0103 - Inspections and Reports of Student Hours	ARRC Objection 2/25/91
21 NCAC 14I .0109 - Summary of Cosmetic Art Education	ARRC Objection 2/25/91
21 NCAC 14I .0302 - Library	ARRC Objection 2/25/91
21 NCAC 14L .0101 - Qualifications - Cosmetologist Teachers	ARRC Objection 2/25/91
21 NCAC 14L .0210 - Effect on Student-Teacher Ratio	ARRC Objection 2/25/91

### Medical Examiners

21 NCAC 32B .0309 - Personal Interview	ARRC Objection 2/25/91
21 NCAC 32M .0007 - Termination of NP Approval	ARRC Objection 11/14/90
Agency Revised Rule	Obj. Removed 12/20/90

### Nursing, Board of

21 NCAC 36 .0217 - Revocation, Suspension, or Denial of License	ARRC Objection 12/20/90
No Response from Agency	1/18/91
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 36 .0504 - Certificate of Registration	ARRC Objection 1/18/91
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 36 .0505 - General and Administrative Provisions	ARRC Objection 1/18/91
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 36 .0507 - Fees	ARRC Objection 1/18/91
Agency Revised Rule	Obj. Removed 2/25/91

### Physical Therapy

21 NCAC 48C .0102 - Responsibilities	ARRC Objection 9/20/90
Agency Returned Rule Unchanged	No Action 10/18/90
Agency Revised Rule	Obj. Removed 2/25/91
21 NCAC 48C .0501 - Exemption for Students	ARRC Objection 9/20/90
Agency Returned Rule Unchanged	No Action 10/18/90
Agency Revised Rule	Obj. Removed 2/25/91

### Plumbing, Heating and Fire Sprinkler Contractors

21 NCAC 50 .1203 - Disposition of Petitions	ARRC Objection 11/14/90
Agency Revised Rule	Obj. Removed 12/20/90
21 NCAC 50 .1207 - Request to Participate	ARRC Objection 11/14/90
Agency Revised Rule	Obj. Removed 12/20/90

## SECRETARY OF STATE

### Securities Division

18 NCAC 6 .1210 - Securities Exchgs/Autod Quot. Sys. Approved/Admin	ARRC Objection 12/20/90
Agency Responded to Objection	No Action 1/18/91

## STATE PERSONNEL

25 NCAC 1D .0509 - Severance Salary Continuation	ARRC Objection 1/18/91
Agency's Response Unacceptable	2/25/91

*This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.*

**10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION**

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *New Hanover Memorial Hospital, Inc., Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0792).

**10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION**

Brenda B. Beeton, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *High Point Regional Hospital, Inc., Petitioner v. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0770).

**10 NCAC 3R .0317(g) - WITHDRAWAL OF A CERTIFICATE**

Robert Roosevelt Reilly, Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Dawn Health Care, a North Carolina General Partnership, Petitioner v. Department of Human Resources, Certificate of Need Section, Respondent* (90 DHR 0296).

**10 NCAC 3R .0317(g) - WITHDRAWAL OF CERTIFICATE**

Michael Rivers Morgan, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Autumn Corporation, Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0321 and 90 DHR 0318).

**10 NCAC 26I .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE**

**10 NCAC 26I .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS**

**10 NCAC 26I .0104 - FORMAL APPEALS**

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 26I .0101, 10 NCAC 26I .0102 and 10 NCAC 26I .0104 void as applied in *Linda Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHR 0940).

**10 NCAC 42W .0003(c) - COUNTY DEPT OF SOCIAL SERVICES RESPONSIBILITIES**

**10 NCAC 42W .0005 - REPORTING CASES OF RAPE AND INCEST**

The North Carolina Court of Appeals, per Judge Robert F. Orr, declared Rules 10 NCAC 42W .0003(c) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* [100 N.C. App. 603, 398 S.E.2d 40 (1990)].

---

## NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

---

*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

### TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
14A	Crime Control and Public Safety	Landscape Contractors	28
15A	Environment, Health, and Natural Resources	Marital & Family Therapy	31
16	Public Education	Medical Examiners	32
17	Revenue	Midwifery Joint Committee	33
18	Secretary of State	Mortuary Science	34
19A	Transportation	Nursing	36
20	Treasurer	Nursing Home Administrators	37
*21	Occupational Licensing Boards	Occupational Therapists	38
22	Administrative Procedures	Opticians	40
23	Community Colleges	Optometry	42
24	Independent Agencies	Osteopathic Examination and Registration	44
25	State Personnel	Pharmacy	46
26	Administrative Hearings	Physical Therapy Examiners	48
		Plumbing, Heating and Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Practicing Counselors	53
		Practicing Psychologists	54
		Professional Engineers and Land Surveyors	56
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work	63
		Speech and Language Pathologists and Audiologists	64
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

---

*CUMULATIVE INDEX*

---

*CUMULATIVE INDEX*  
*(April 1991 - March 1992)*

1990 - 1991

Pages	Issue
1 - 44.....	1 - April

- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- M - Miscellaneous
- NP - Notice of Petitions
- PR - Proposed Rule
- SO - Statements of Organization
- TR - Temporary Rule

**CORRECTION**

Division of Prisons, 35 FR.

**ECONOMIC AND COMMUNITY DEVELOPMENT**

Alcoholic Beverage Control Commission, 4 PR

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

Health: Epidemiology, 28 PR

Health Services, 9 PR

**GOVERNOR/LT. GOVERNOR**

Executive Orders, 1

**HUMAN RESOURCES**

Medical Assistance, 9 PR

Mental Health, Developmental Disabilities and Substance Abuse Services, 5 PR

**LICENSING BOARDS**

Architecture, Board of, 30 PR

Physical Therapy Examiners, Board of, 33 PR

**PUBLIC EDUCATION**

Elementary and Secondary, 29 PR



# NORTH CAROLINA ADMINISTRATIVE CODE

*The full publication consists of 53 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication are available at one-half the new subscription price.*

## PRICE LIST FOR THE SUBSCRIPTION YEAR

Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
1 - 52	Full Code		All titles	\$750.00	_____	_____
1	1	1 - 37	Administration	90.00	_____	_____
2	2	1 - 24	Agriculture	75.00	_____	_____
3	2	25 - 52	Agriculture	75.00	_____	_____
4	3	1 - 4	Auditor	10.00	_____	_____
5	4	1 - 2	ECD (includes ABC)	45.00	_____	_____
6	4	3 - 20	ECD	90.00	_____	_____
7	5	1 - 2	Correction	60.00	_____	_____
8	5	3 - 4	Correction	30.00	_____	_____
9	6	1 - 4	Council of State		_____	_____
	7	1 - 12	Cultural Resources	60.00	_____	_____
10	8	1 - 9	Elections	10.00	_____	_____
11	9	1 - 4	Governor	45.00	_____	_____
12	10	1 - 2	Human Resources	30.00	_____	_____
13	10	3A - 3K	Human Resources	90.00	_____	_____
14	10	3L - 3R	Human Resources		_____	_____
			(includes CON)	45.00	_____	_____
15	10	3S - 3U	Human Resources	30.00	_____	_____
16	10	4 - 6	Human Resources	30.00	_____	_____
17	10	7	Human Resources	30.00	_____	_____
18	10	8 - 9	Human Resources	30.00	_____	_____
19	10	10	Human Resources	30.00	_____	_____
20	10	11 - 14	Human Resources	60.00	_____	_____
21	10	15 - 17	Human Resources	45.00	_____	_____
22	10	18	Human Resources	75.00	_____	_____
23	10	19 - 30	Human Resources	90.00	_____	_____
24	10	31 - 33	Human Resources	30.00	_____	_____
25	10	34 - 41	Human Resources	60.00	_____	_____
26	10	42	Human Resources	45.00	_____	_____
27	10	43 - 51	Human Resources	90.00	_____	_____
28	11	1 - 15	Insurance	90.00	_____	_____
29	12	1 - 12	Justice	90.00	_____	_____
30	13	1 - 6	Labor	30.00	_____	_____
31	13	7	OSHA	45.00	_____	_____
32	13	8 - 15	Labor	45.00	_____	_____
33	14A	1 - 11	Crime Control and Public Safety	45.00	_____	_____
34	15A	1 - 2	EHNR (includes EMC)	90.00	_____	_____
35	15A	3 - 6	EHNR	45.00	_____	_____
36	15A	7	Coastal Management	45.00	_____	_____
37	15A	8 - 9	EHNR	30.00	_____	_____
38	15A	10	Wildlife	45.00	_____	_____

*Continued*

Volume	Title	Chapter	Subject	New Subscription*	Quantity	Total Price
39	15A	11 - 18	EIHR	90.00	_____	_____
40	15A	19 - 26	EIHR (includes Breathalyzer)	75.00	_____	_____
41	16	1 - 6	Education	30.00	_____	_____
42	17	1 - 6	Revenue	75.00	_____	_____
43	17	7 - 11	Revenue	60.00	_____	_____
44	18	1 - 7	Secretary of State	30.00	_____	_____
45	19A	1 - 6	Transportation	90.00	_____	_____
46	20	1 - 9	Treasurer	45.00	_____	_____
47	21	1 - 16	Licensing Boards	75.00	_____	_____
48	21	17 - 37	Licensing Boards	75.00	_____	_____
49	21	38 - 70	Licensing Boards		_____	_____
	22	1 - 2	Administrative Procedures	75.00	_____	_____
50	23	1 - 2	Community Colleges	10.00	_____	_____
51	24	1 - 2	Independent Agencies	10.00	_____	_____
52	25	1	State Personnel	60.00	_____	_____
53	26	1 - 4	Administrative Hearings	10.00	_____	_____

(North Carolina Subscribers add 5% sales tax)

Total

(Make checks payable to Office of Administrative Hearings.)

\* This price includes the title in its current form plus supplementation for the subscription year.

Subscription years are January 1 through December 31.

MAIL TO:

OFFICE OF ADMINISTRATIVE HEARINGS  
POST OFFICE DRAWER 27447  
RALEIGH, NORTH CAROLINA 27611-7447

Office of Administrative Hearings  
P. O. Drawer 27447  
Raleigh, North Carolina 27611-7447

PLACE  
STAMP  
HERE

---

---

---

FOLD HERE

## NORTH CAROLINA REGISTER ORDER FORM

- ☐ Please enter my subscription for the *North Carolina Register* to start with the \_\_\_\_\_ issue.  
(\$105.00)/year subscription)
- ☐ Renew *North Carolina Register*
- ☐ Check Enclosed      ☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE \_\_\_\_\_

(Return to Office of Administrative Hearings - fold at line, staple at bottom and affix postage.)

## CHANGE OF ADDRESS:

### 1. Present Address

NAME

ADDRESS

CITY

STATE

ZIP

### 2. New Address

NAME

ADDRESS

CITY

STATE

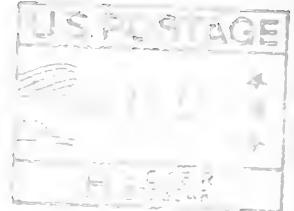
ZIP

### Office of Administrative Hearings

P. O. Drawer 27447

Raleigh, North Carolina 27611-7447

SAFETY  
HEAVY



# FIRST CLASS MAIL

585  
UNIV. OF NORTH CAROLINA  
LAW LIBRARY  
JAN HECKE-WETTACH 064-A  
CHAPEL HILL

NC 27599